

Internet Newsletter for Lawyers

By Delia Venables

November/December 2004

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British and Irish Legal Information Institute (BAILII) and the Irish Legal Information Initiative (IRLII):

Freeing the Law in Ireland by John Mee

One of the most exciting features of the BAILII project is its multi-jurisdictional nature. The BAILII website (www.bailii.org) provides free access to primary legal materials from the European Union, the UK, England, Wales, Northern Ireland, Scotland and Ireland. This article discusses the contribution of Ireland to the BAILII project and also draws attention to IRLII, a complementary website run by University College Cork (www.irlii.org).

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Ireland has been strongly involved in BAILII from the outset and, indeed, the first public launch of the BAILII website took place in Cork in April 2000. The Irish contribution is coordinated by myself at University College Cork, as one of the trustee-directors of the BAILII charity. It is funded by the Law Society of Ireland and the Irish Bar Council. The work has been greatly assisted by Micheal O'Dowd, a technically gifted law student (recently graduated) and his predecessors, Conor O'Mahony and Michelle Anders.

An unusual feature of the Irish situation is that, to date, BAILII has provided the only free access to the decisions of the Irish courts. BAILII contains a more or less comprehensive collection of the decisions of the Irish Supreme Court, the jurisdiction's highest court, going back to 2001 (with a fair number of additional cases from 2000 and 1999). The other superior court in the Irish system, the High Court, is also well-represented with a collection of over 1500 decisions going back to 1997. The fact that there is no official website providing access to judgments (and the related fact that there has, up to very recently, been no fully reliable feed of electronic judgments available to BAILII) has made more challenging the task of building up these databases. This has required ongoing work at UCC (with the assistance of law students) to make the cases ready for BAILII.

Most of the Irish judgments on BAILII have been obtained from the Irish Courts Service, although some have been scanned at University College Cork and others have been obtained from other sources. It is understood that the Courts Service intends (in October/November 2004) to start putting up judgments on its website (www.courts.ie).

The Courts Service site will initially contain Supreme Court cases going back to 2001 and Court of Criminal Appeal cases from 2004 (with High Court cases to be added at some future point). It is hoped that this long-awaited development will facilitate the consolidation of BAILII's Irish collection. Particularly useful would be the inclusion of Court of Criminal Appeal judgments on BAILII, something which has been impossible in the past due to the unavailability of a supply of electronic versions of the judgments.

BAILII also has decisions of the Irish Competition Authority going back to 1996 and of the Information Commissioner back to 1998, as well as the reports and consultation papers of the Irish Law Reform Commission from its establishment in 1976 (a rich source of comparative material for UK researchers).

In terms of legislation, BAILII has Irish statutes going all the way back to Irish independence in 1922 and the statutory instruments (delegated legislation) from 1922-1998.

The role of IRLII

In 2001, I established the IRLII (Irish Legal Information Initiative) website at www.irlii.org, hosted by University College Cork. It is managed by myself and Micheal O'Dowd. While it is a 'LII' like BAILII, AUSTLII or CanLII, IRLII is called an 'Initiative' rather than an 'Institute' to emphasise that it is intended as a complement to BAILII rather than as a rival. IRLII started life as a simple webpage, where recent judgments could be uploaded pending their availability on the BAILII database. At that stage, it took some weeks for new cases to be uploaded onto the BAILII website. Now that BAILII's permanent staff, led by Joe Ury, have been established in London, the Irish judgments can be promptly loaded onto the main BAILII site. However, rather than discontinue the IRLII service, the decision was taken to broaden its appeal.

IRLII now offers customised access to the BAILII site for Irish users. Moreover, it offers five additional services which go beyond the type offered on the main BAILII site: the IRLII Index of Irish cases, the Leading Cases database, the Periodicals Index, the Statutory Instruments Index, and Statutes. These will now be explained in turn.

(i) The *IRLII Index of Irish Cases* endeavours to index all judgments delivered by the Superior Courts in Ireland since 1997 (whether or not the judgment is on BAILII), while selected earlier judgments are also indexed. Where the full text of a judgment is available online (such as on BAILII) a hyperlink is provided. Citations to law reports are also provided where applicable. The Index can be sorted by date or alphabetically.

(ii) As part of a *Leading Irish Cases* project funded by the Arthur Cox Foundation, UCC Faculty of Law lecturers have identified more than 200 Irish cases from over the decades which are of particular importance in a variety of legal subject areas. IRLII staff have scanned and proofread the relevant cases, which are grouped on the IRLII site under 22 subject headings. All these cases have been added to the main BAILII databases but it is only possible to view them by subject area on IRLII.

(iii) The *Periodicals Index* is concerned with secondary legal sources, and is quickly proving to be the most popular IRLII resource. The articles in seventeen Irish legal periodicals are indexed since 1997 (although some periodicals have ceased to exist and more have come into being since that date). Due to copyright restrictions, the full text of each article is not available but the title, author, citation and

keywords relevant to each article are provided. The index can be searched, either by author and title, or by keyword, or can be browsed by journal title.

(iv) The *Statutory Instruments Index* is the only freely available index to Irish statutory instruments for 2003 and 2004. Although instruments and regulations up to 2002 are available from the Attorney General's website (see www.irishstatutebook.ie), there is no comprehensive source of more recent secondary legislation. IRLII updates the statutory instruments index whenever new material is notified in *Iris Oifigiúil* (the Official Journal), and a hyperlink is provided if the particular piece of legislation is available online on a government department website or elsewhere (although unfortunately many recent statutory instruments are not available anywhere on the web).

(v) IRLII also provides access to HTML versions of recent Irish statutes. These are subsequently uploaded to BAILII.

IRLII is still being developed and expanded. The most recent feature is the 'search by citation' function which allows a user to retrieve a case using the BAILII vendor neutral citation or commercial citations such as those used by the Irish Reports or the Irish Law Reports Monthly.

There would be obvious advantages in integrating the IRLII services into the main BAILII site. However, in its current state of development, the BAILII site is concerned with providing free access to primary legal materials and the more varied services offered by IRLII do not comfortably fit within that model. It is likely that IRLII will continue to exist as a separate site for the foreseeable future but as the BAILII project develops we will continue to explore the possibilities for bringing the two websites closer together.

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See also the report by Joe Ury in the September/October issue of this Newsletter which concentrates on the UK resources included in BAILII.

Note from Delia: BAILII needs donations from ordinary firms, chambers, companies and individuals - a donation is not only a financial contribution but also an indication of support for the project. Please see the BAILII site for how to donate. I myself donate £1 for each subscription received for this newsletter - about £1,000 each year - but that does not let YOU off the hook! If you believe in free access to the law for all, please make a donation now.

Lawfinder Data Feeds

infolaw, publishers of the Lawfinder web portal, are now delivering Lawfinder data feeds direct to lawyers' desktops (see www.infolaw.co.uk/feeds). Lawfinder catalogues more than 95,000 UK legal documents and resources available on the public web including Acts, SIs, Cases, Bills, Consultation Documents, Command Papers, Forms and Precedents. The new Lawfinder webfeeds are delivered as dynamically-updated XML data in standard RSS 1.0 format which can be browsed using an RSS reader (or aggregator) - a browser-based desktop tool that checks feeds for new items periodically and alerts users when updates are found. The Lawfinder webfeeds also include full Dublin Core metadata from the Lawfinder database and will thus enable firms to integrate the data into their knowledge management systems. After initial setup they can automatically acquire over 1,000 new records per month.

Lawyers – are they Data Protection Compliant?

by Peter Carey

According to the *Financial Times*, data protection law is due to cost British businesses £7.5 billion, making it the most expensive 'red tape' ever to emerge from Europe. Law firms and barristers, in the same way as any other businesses, must adhere to the personal data processing requirements in the Data Protection Act 1998 ('DPA'), which was passed to implement the provisions of the European Data Protection Directive (95/46/EC). In an extra complication, which has arisen since the FT produced its startling figure, law firms and barristers must now also comply with the Privacy & Electronic Communications (EC Directive) Regulations 2003 – a measure which restricts the use of email for marketing purposes, and obliges certain information to be supplied on organisations' websites.

With the Information Commissioner hot on the heels of law firms (several prosecutions are currently in the pipeline) lawyers must do more to ensure that compliance 'at home' is a priority. This article sets out some of the areas that, in my experience of conducting data protection compliance reviews (audits) for law firms, represent the most common breaches of data protection law.

Information that must be supplied to clients

It is clear that a law firm must comply with the usual data protection requirements in respect of client data – examples include using data only for the purposes for which those data are acquired (Second Data Protection Principle), ensuring the security of data (Seventh Data Protection Principle) and destroying obsolete data (Fifth Data Protection Principle).

The 'fair processing' obligations, in Schedule 1, Part II of the DPA, additionally require that certain information must be supplied at the point of data collection, or as soon as practicable thereafter: the identity of the business, the purposes for processing and 'any other information to enable the processing to be fair.' The purposes for which a law firm collects client data include performing money laundering checks, the provision of legal advice and the marketing of its own legal services. Earlier this year, a European diktat indicated that informing individuals on whom businesses collect personal data of the fact that the individuals generally have the right to see copies of those data (section 7 of the DPA allows this right of 'subject access') is a necessary part of the 'fair collection' notice.

Given that the 'fair collection' information should ideally be provided in permanent form, law firms may consider that the most logical place to provide the information is in their standard Rule 15 letter. The precise content of the data protection notice that should be given to clients depends entirely on what the law firm expects to do with personal data collected. One aspect of data processing that firms often forget is the use of client data for marketing purposes.

Outsourcing

Certain requirements arise out of the relationship that exists between the law firm and the organisations to whom it outsources aspects of personal data processing, such as payroll companies (staff data), website hosts (electronic data collection), and confidential waste management agents (client and staff data). Significantly, unlike the law firm itself, a third party data processor does not fall within the class of 'persons' that are regulated by the DPA.

The DPA renders outsourcing arrangements *unlawful* unless certain formalities are present – first, the contract between the law firm and the outsourcing company must be in writing; second, the contract must contain certain minimum obligations on the outsourcee, namely an obligation to process personal data only on the instructions of the law firm and to take security measures equivalent to those imposed in the law firm under the Seventh Data Protection Principle (see below).

New contracts with data processors should contain, at the very least, these minimum requirements. Older contracts should be amended to incorporate the required provisions. Law firms should check that their arrangements with barristers comply with the above requirements.

Direct marketing by email

The law on email marketing changed in December 2003. By virtue of the Privacy & Electronic Communications (EC Directive) Regulations 2003, it is now, subject to one exception, unlawful to send marketing emails without having obtained prior *opt-in* consent from the intended recipient of the emails. The exception, where it is still possible to send marketing emails with *opt-out* consent, applies where the law firm obtained the electronic contact details directly from the intended recipient in the context of the sale of a product or service, it uses the details to market its own similar products and services, and it gives an opt-out (or 'unsubscribe') facility in each email.

Law firms should be aware that the mere sending of 'email updates' to clients and prospective clients constitutes 'direct marketing' and is subject to the new restrictions. In many cases, the most logical place to obtain consent for marketing may be in the Rule 15 letter. Using the above exemption from the 2003 Regulations law firms should be able to legitimise their marketing activities client by simply obtaining opt-out consent. Failure to comply with the requirements of the exemption will necessitate the obtaining of opt-in consent before undertaking electronic marketing.

Security

The Seventh Data Protection Principle requires UK businesses to take 'appropriate technical and organisational measures' to ensure the security of the personal data that they process. A survey conducted by a private detective agency in late 2002 showed that law firms are generally 'very poor' at implementing these.

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Common breaches of the Seventh Principle include leaving files on desks after hours, leaving computers on standby, failing to employ adequate backup procedures and discarding non-shredded paper waste through traditional waste collection procedures.

Notification

It is a legal requirement of all businesses in the UK to register (or 'notify') with the UK data protection regulator (the Information Commissioner) – this can be done online at www.informationcommissioner.gov.uk. Although there are some limited exemptions from the registration requirement, law firms and barristers are unable to benefit from the exemptions.

When registering, law firms must state the purposes for which they process personal data (there are 33 to choose from, one of which is 'processing for the purpose of providing legal services') and must indicate whether they transfer data outside the European Economic Area. Using personal data in any business in a manner which is incompatible with the register entry is a criminal offence.

Peter Carey is Consultant Solicitor to Charles Russell, author of 'Data Protection – a practical guide to UK and EU law' (Oxford University Press) and editor of Privacy & Data Protection Journal, www.privacydataprotection.co.uk. He is running a one-day course for law firm practice managers and compliance officers 'Data protection compliance for Law Firms' in London on 20th January 2005, see www.privacydataprotection.co.uk/training. Email admin1@privacydataprotection.co.uk.

Government Legal Service (GLS) by Victoria Smith, LexisNexis UK

The Government Legal Service (www.gls.gov.uk) provides recruitment, training and networking support to over 1,900 government lawyers across 40 departments and public bodies. The lawyers work in many areas across government covering both public law (such as consent to treatment in NHS, monopolies and mergers and prosecuting benefits fraud) and private law (such as the Official Solicitor acting for young women with learning disabilities whose mothers think they should have sterilisation operations). They also liaise with officials, instruct Parliamentary Counsel in drafting legislation and brief Ministers for Parliamentary debates.

As a result of the many separate areas where government lawyers work, from a single adviser in a government body to the 350 within the Treasury Solicitors Department, the GLS has set up a cross departmental intranet, called the Legal Information Online Network (LION). This intranet draws lawyers together offering information on legal and procedural matters and providing contacts for further information. The site includes specialist legal interest noticeboards covering matters of particular interest, called Action Zones. These include advice and guidance, the GLS Journal and information sources provided by legal and business publishers.

LION is hosted by the Treasury Solicitors and updated by a small team providing technical and design support. It is accessed by over 2,000 lawyers and information managers from various offices in the 40 departments and other locations, for example those working at home and others working on location in Strasbourg.

Procurement

In April 2004 the Treasury Solicitor, on behalf of the Government Legal Service, procured various key information services from LexisNexis UK through the S-CAT approved supplier list (S-CAT is an approved supplier list to the public sector; the process is similar to the approval process law firms complete under the legal services category for working with government). Thus, LexisNexis UK is now an approved supplier under the new category of business and legal information and research services.

Overall, the aims of the procurement were to obtain a comprehensive, flexible, value for money subscription service, compatible with the LION infrastructure. The services we now provide are Halsbury's Laws Direct, Legislation Direct, All England Direct, Employment Law Online, Encyclopaedia of Forms and Precedents, Civil Procedure Online and Current Awareness

Project LION has provided us with many interesting technical and logistical challenges. To enable people to access the subscription services hosted on our file servers in Woking, we needed to create an authentication method which would identify LION users exclusively, independently of usual subscriptions to other services. This was achieved with the creation of an entirely new authentication package based on their domain address rather than Internet Protocol (IP) address.

Specialised Information

Those government lawyers working in specialist departments of government, such as the Office of the Rail Regulator and Hydrographic Office, need very specific information on their particular areas of law. We provide email alerts covering specific legal content on subject areas in a 660 word legal taxonomy in customised, individual email alerts with newsfeeds customised to replicate the look and feel of LION.

Some cases or policy are particularly high profile in the public eye and the legal advice is therefore required to be accurate and updated frequently. Access to the subscription services on LION are available 24/7 and LexisNexis UK's email alert service can be set to deliver at 7 am with twice daily updates.

The environment of a government lawyer is intellectually demanding and requires the ability to clarify complex ideas, such as serious tax fraud and to understand the context of a legal issue, for example BSE and the foot-and-mouth outbreak.

European law has a bearing on practically every aspect of government law and needs detailed monitoring. Case materials from ECHR, ECJ and Court of First Instance are provided on the information sources with hypertext links into the commentary of key sources such as Halsbury's Laws.

Government lawyers have a unique constitutional role in assisting the government of the day in formulating policies, carrying out decisions and administering public services. We are helping government lawyers react quicker, provide comprehensive briefings and enhance the legal aspects of the Parliamentary process.

Victoria Smith is Business Development Manager, Government, of LexisNexis UK, www.lexisnexis.co.uk. Email victoria.smith@lexisnexis.co.uk.

UN Forum on Online Dispute Resolution, July 2004 by Graham Ross

Whilst many parts of the legal world continue to drag their feet in delivering to clients the methods of resolving disputes that clients would really prefer, i.e. non court based methods, the expanding online environment is fast developing ADR solutions with which jurisdiction hampered courtrooms simply cannot compete.

The United Nations held its Third Annual Forum on Online Dispute Resolution in July 2004. For most of us the United Nations is where governments of the world gather in celebration of the art of disagreement. So who are these people lecturing everybody else on resolving disputes? The fact is that the famous building standing isolated on the East side of Manhattan is probably the smallest and most ineffective aspect of that fine organisation. Far more work is done through economic commissions which operate to help the world of commerce, from single owner businesses to corporate giants, to just 'do business' with each other. With the exception of the arms industry, countries that trade together tend not to go to war with each other.

Having said that, the UN recognises that commerce leads to disputes and that disputes, when taken to court, usually destroy the future trading relationship of the parties involved. Thus, systems that help parties to reach solutions unavailable to the courts are to be encouraged, such as commitments to further orders as part of a reduced payment settlement on a dispute over an earlier order. Online ADR can help deliver such solutions.

Another motivation for the UN is that ODR helps emerging economies advance trade with the developed world at a much faster pace than would otherwise be the case. After all, who would want to do business with any of the ten new EC countries if there was a real prospect of having to litigate through their antiquated judicial systems? The Brussels Regulation on Jurisdiction (which invalidates certain contractual jurisdiction clauses) makes that all the more of an issue for consumer transactions since its impact can otherwise only reduce the access of consumers in such countries to the products of the developed world. Why sell a product whose value is so low as to not justify the cost of defending a claim in the buyer's country?

The message for business is that ODR makes sense, not only in expanding the countries with whom one can safely do business, but in reducing the legal and management costs caused by the sheer drain on executive resources and budgets in dealing with court based resolution.

The message for mediators is that they can readily expand their practice by offering mediation to parties at a geographical distance. Even in disputes where a more traditional mediation meeting is useful, ODR deals with the pre-mediation phase, helping the parties to narrow the issues so they make better progress when mediation starts.

The first two UN Forums were held in Geneva and hosted by the United Nations Economic Commission for Europe. This year, the forum moved to the Asia Pacific region and was held at the University of Melbourne Law School in Australia and jointly run by the University's International Conflict Resolution Centre. The Forum was attended by over 250 people travelling from many countries including the USA, UK, China, Malaysia, Holland, India, Egypt, Canada, Singapore, Philippines, Sri Lanka, Ireland and of course, Australia.

The Forum reported that there had been 1.6 million ODR cases completed to date albeit the vast bulk being eBay consumer disputes, of which over 95% were settled directly between the parties, with the balance using Square Trade panel mediators operating via email. There are 82 operating ODR services. Most of these just use email to communicate and there is overlap between platform application providers and mediation /arbitration service providers.

The major study presented to the Forum by the International Conflict Resolution Centre of Melbourne reported "more than 70% of respondents (in Victoria, Australia) would be willing to consider ODR" and "The majority of government agencies saw the benefits of online ADR and were interested in introducing some online ADR techniques as an additional service".

The two day Forum examined the benefits that ODR brings to ADR including the way in which ODR:-

- * widens the mediation market to international and low value disputes
- * avoids the delays of arranging meetings
- * increases the number of cases handled by a mediator at any one time
- * for traditional meeting based mediation, ODR adds benefit in the pre-mediation phase by narrowing issues and controlling emotive content
- * for consumer businesses, ODR generates greater customer confidence and, therefore, loyalty by making it easier for a customer to pursue a complaint
- * well constructed ODR platforms provide not only negotiating tools but also discussions between varying groups of participants within a dispute to give the opportunity to use analysis of the discourse data to improve a company's management techniques for dispute handling with a view to reducing in future the extent to which grievances escalate into disputes.

As well as keynote presentations, there were various hands-on workshops of the various systems. My company used the opportunity to demonstrate live the voice conferencing elements now integrated into the application at www.TheMediationRoom.com.

The general consensus of the Forum was that, whilst the 'whites of the eyes' factor is an effective element of F2F mediation, on-line and off-line dispute resolution should not be seen to be in conflict with each other. Rather, ODR is a new and more flexible communication medium that widens the scope of disputes that can benefit from ADR generally and can extend the application of ADR to disputes between parties who are geographically distant or where the subject value is too low to justify the cost of F2F mediation.

Identifying and promoting the advantages of ODR in the running of a business and developing ODR as an integral element in hybrid systems is the way forward likely to lead most quickly to large scale usage.

Note: The audio of all presentations with powerpoints is available at odrforum2004.TheMediationRoom.com.

Graham Ross is a member of the UN Expert Panel on Online Dispute Resolution. He is a solicitor and founder of TheClaimRoom.com (see www.TheClaimRoom.com), the company that developed and operates The Mediation Room (www.TheMediationRoom.com). Graham's company is now the ODR provider to Australia's leading ADR service LEADR, and they are running pilots in China and Australia with others scheduled shortly for Malaysia and Sweden. Email g.ross@TheClaimRoom.com.

Backing Up Data - Online and Onsite by Antony Nicholls

Integrity and security of data coupled with the need to assure client confidentiality are high on the agenda for any Law Firm. With this in mind, Lees Lloyd Whitley recently carried out a comprehensive review of their backup strategy. We had the typical setup that you can find at so many firms, namely a tape based system with Grandfather, Father and Son rotation and tapes taken off site overnight for storage in case of disaster.

Although still very common, there are major disadvantages with traditional tape based backup systems. They are plagued by mechanical and media failure and they have limited capacity given the ever growing storage requirements of most organisations in the legal sector. They are slow (consider the speed of a tape drive compared to the speed of a hard disk) and they bring with them a perpetual replacement cycle for drives, media and software upgrades which of course is an ongoing cost. In addition tape pools require a great deal of IT resource to manage and (particularly at remote sites) it is sometimes necessary to rely on non IT staff to manage tape libraries.

The removal of tapes from the premises introduces a security and confidentiality risk in that the tape could be lost, stolen or subject to unauthorised duplication.

And finally, how can you be sure that the backup has actually taken place? The backup software may say it has written to the tape successfully and that a successful verification had taken place, but the proof of the pudding is when you come to recovery and the data can or cannot be retrieved.

Disk to Disk solutions have become more prevalent recently following the reduction in cost of hard drive storage over the past few years; the solutions are now much more affordable for small and medium sized businesses and there are even systems for home office or individual use.

There are two distinct varieties of disk to disk backup... online backup or onsite backup.

With an online system of backup, files are transferred on a regular basis from your servers or workstations via the internet to a hosted data repository. These services are usually costly unless you have very limited data storage requirements. There is also a consensus of opinion that these solutions are potentially risky even with encryption in terms of confidentiality and security as they transfer data over the internet and the data is essentially out of your control. (See Roderick Ramage's article on this topic in the September/October issue of the newsletter).

With an onsite system, the data is encrypted and transferred to dedicated storage servers on your own site or to other sites within the same organisation, via private telecommunications links.

Following our review we now use an onsite solution called "Evault" (see their web site at www.evault.com) together with two specially purchased storage servers each of which has 1TB storage capability.

The Evault solution is a disk to disk backup technology. Considering that the majority of backup failures are due to tapes and tape technology then this in itself improves reliability considerably. We are seeing a 99% success rate on backups today.

The software performs only one full backup - the first backup, called the "initial seed". After that it will just backup the changes. Note that Evault will back up only the blocks that have changed; some products backup any file which has changed. Just backing up the blocks which have changed reduces the amount of data to be transported and stored to an absolute minimum. Indeed, we never back up the same file more than once, unless it changes. We have noticed that we require only a tenth of the media previously demanded by our backup application. Instead of a daily backup taking 8 hours it is now done in 30 minutes.

This allows us to backup data from our remote offices to a vault located in our head office over a variety of different connections including low bandwidth connections. Before the data is transported it is encrypted and compressed which makes it very secure. In addition the data can be optionally further encrypted when written to disk which would ensure that no one (without the password) was able to see the saved data.

A software "Agent" runs on those servers which require backing up. The Agent operates with a set of parameters defined by the data retention policy of the firm. It monitors the schedule using a graphical scheduling system and when a backup task is due for execution, the Agent opens up the backup task definition file, reads in the parameters and executes the backup accordingly.

Backup is fine but what about data recovery? Revisions of files are kept so we can go back to any date - select the file we want to restore and recover a particular version of the file. The Vault copies the file/directory from its disk back to the server's disk. You are also given an option to restore files or directories to locations which may be different from the one where they originated. Another useful feature is the ability to do a "system state" backup; this means that we can restore a full server and not just its data files.

Although very happy with this as an architecture we felt it did not totally meet our Business Continuity Objectives, i.e. to have our data backed up to two locations. We therefore opted to implement a dual vault solution. This allows us to run two parallel backups, one to the vault at the head office and a second to a vault at a remote site. This means that at any point of time we have three working copies of each piece of data in the organisation and that if disaster should strike one site then the data also exists elsewhere and can be quickly recovered. This also negates the need to take tapes offsite and introduce the security risks associated with doing this.

Evault now backs up all our Windows and Netware servers and we are looking at adding the Desktop/Laptop version to back up remote workers as well. We can monitor operations through a Central Control securely from anywhere - either the office or remotely using a laptop.

This has saved us a considerable amount of time and money; we now no longer need to buy tapes or tape drives or pay for annual hardware maintenance. We do not need to worry about data movement and taking it offsite. We do not need to worry about tape rotation and tape care. We do not worry about bad blocks and sectors, read and write errors, tape media and formats. The process is now fully automated.

Antony Nicholls is IT Director of Lees Lloyd Whitley, www.llw.co.uk. Lees Lloyd Whitley are a national practice, with offices in the North West of England and London. Antony has been involved with legal IT for 8 years and is a Chartered member of the British Computer Society. Email asn@llw.co.uk.

Tesco Legal Store by Alan Chance, Lawpack Publishing

The Tesco Legal Store (www.tescolegalstore.com) was launched in June 2004 as a development of Tesco.com, the extraordinarily successful supermarket website which now accounts for more online grocery sales than all of its UK rivals put together.

Lawpack Publishing was commissioned by Tesco to build and run the site (www.lawpack.co.uk). With more than ten years experience in the self-help legal market, we at Lawpack knew how popular our titles could be, if offered to Tesco customers in the right way. For their part, Tesco were very interested in making simple legal solutions more accessible to their customers.

There are four elements to the site:

1. Offline products including books, kits, forms and software. This is the backbone of Lawpack's existing business. We are best known for our DIY Will kits, which sell in several major high street stores, but we have many other titles covering residential letting, small claims, business issues and family law.

2. Online products. This is something of an innovation for us. Tesco customers can also download legal forms and draft letters for instant use.

3. Free information. We wanted to make the site more than a simple online shop. We have a huge resource of information available in our legal books and kits, some of which we decided to offer free. We wanted to make the site a worthwhile destination in itself, as an information source for customers.

4. Referrals to solicitors. Our products give people information so that they are in a better position to decide what they should do next. Often that next step is to seek professional advice, so the site shows customers how to find a solicitor in their local area.

Our aim is to provide genuinely useful information and simple, practical products, without straying into the field of professional legal advice, which is outside our scope.

This is obviously not "Tesco Law", a phrase first used in the national press and picked up by the Lord Chancellor to describe the Government's desire to bring the law into the High Street by allowing solicitors and accountants to band together and practice under the auspices of banks, building societies and retailers. Our website is something entirely different. It is an attempt to make the law more accessible but it stops well short of any formal arrangement between a supermarket and the legal profession.

We could find no precedent for a supermarket offering legal information either in this country or in the USA, so we had no idea how it would be received here. We were very encouraged by supportive comments made by the Lord Chancellor, and also by the Law Society, who issued a Press Release to coincide with the launch.

The launch was widely covered on television, radio and in the national press, and the story was even picked up in Europe and the USA. There was some serious discussion of the pros and cons of making the law more accessible, but the great majority of the press coverage concentrated solely on our Divorce Kit, which is actually just one of more than 150 products on the site.

The Ray Parlour divorce was in the news at the same time. News items and features on Tesco's approach to divorce appeared everywhere from the Daily Mail to the Financial Times, and from BBC Newsnight to Vanessa Feltz's radio phone-in. In fact our Divorce Kit is one of the less ambitious of our products, giving a general introduction to the subject and encouraging people to seek professional help if there is the slightest complication in their affairs. It traditionally accounts for a small proportion of Lawpack's overall sales, but with so much press coverage it has proved to be one of the most popular titles in the Tesco Legal Store.

A common misconception is that we are trying to undercut the legal profession by offering cheap legal advice. As far as possible, we steer clear of the word 'advice' on the site because this is not our business. We are publishers, not lawyers, even though most of our products are written by barristers and solicitors. By offering a service at arms length through the internet we obviously cannot claim any knowledge of individual circumstances. It is quite clear to us, and we try to make it equally clear to our customers, that we cannot give them professional advice.

Adverts....

JustCite from Context

JustCite is the legal reference search engine which provides a fully cross-referenced index to a comprehensive collection of authoritative UK and European legal information.

It is the only provider-neutral legal research service and combines searchable content from different publishers within a single interface. The user types a reference or case name into an embedded search box and is then presented with a comprehensive overview of information relating to the reference.

Further information can be found at www.justcite.com and you can register for a free trial, or call us on 020 7284 8080.

DeadMan's Handle - stops data theft in its tracks

Losing your notebook might be expensive - but losing your data could be catastrophic.

When your notebook vanishes, panic can replace it. What was on the machine? Was there adequate security - and was it properly activated? You are faced with the prospect of sensitive information falling into the wrong hands.

DeadMan's Handle stops that happening the moment your missing notebook is turned on. Unauthorised access leads to deletion of all designated information and the program itself; no indication is left that there was anything of importance on the machine. This stops data theft in its tracks!

For more information, visit DeadMan's Handle at www.deadmanshandle.com.

Our site aims to give people basic information about their legal rights and responsibilities. Where they can handle simple issues themselves, we hope to give them the confidence to do so. Where they cannot, we can at least introduce them to the subject and direct them to the right source of advice, which may save them time and money when, for example, they visit their solicitor.

Of course, the site cannot hope to provide comprehensive coverage of every legal issue and is not above criticism. Neil Howlett, in the September/October issue of this newsletter, made various points, including: "The site does encourage consumers to seek legal advice but exactly at what stage they should do so is unclear".

In fact this is what we say on the site (and there are similar instructions in many of our books and kits):

- "You should certainly consult a lawyer in any of these cases:
1. You have a serious or urgent legal issue. Some problems can become serious if they are not tackled in good time.
 2. You are not confident that you can solve the problem yourself.
 3. You prefer to talk to a professional. Sometimes it's easier to share a problem.
 4. A large sum of money or an important contract is at stake.
 5. A legal issue is not straightforward and the solution is not clear to you.
- If in doubt, always seek help."

We believe that this is clear, and indeed we can see from our traffic records that a large number of our customers are using the site to link through to the Law Society's database,

or to its equivalents in Scotland and Northern Ireland. The 'Find a Lawyer' facility is one of our most popular features.

Again, Mr Howlett says, in relation to our Divorce and Separation Kit: "There is so much good information available for free on the web that it is hard to see that it is worth paying for". Point taken, and the same could be said about virtually any information-based subject where a search on Google links you to thousands of relevant pages. With adequate time, research skill and the ability to sort the wheat from the chaff, we can learn more or less anything from the internet. It does not follow that there is no merit in a printed guide written by a qualified expert giving an easy-to-read overview of a particular subject, complete with practical information and links to further sources of advice. This is what we aim to do with the Legal Store, and £9.99 can hardly be considered too high a price.

Now that the site is launched, we will concentrate on expanding and improving it, with new titles as they become available, and with regular updates. The feedback we have had so far suggests that there is a real need for this basic legal guidance and I am sure that this site is a worthwhile addition to Tesco's range.

But Mr Howlett makes many good points and we will take them all on board. Starting a new website is hard work and there's still plenty to do!

Alan Chance is a Director of Lawpack Publishing Ltd, www.lawpack.co.uk. Email alan.chance@lawpack.co.uk.

New Scottish Parliament Site Launched

The screenshot shows the website for the Scottish Parliament. At the top, there is a navigation bar with links for Accessibility, Access Keys, Sitemap, Help, Advanced Search, Glossary, and Online Updates. Below this is a search bar with a 'Quick Search' button and a 'Search' button. The main header includes the Scottish Parliament logo and a navigation menu with options like 'Visit, Learn, Interact', 'MSPs', 'News, Media & Events', and 'About the Parliament'. A left-hand sidebar contains a list of links such as 'The Chamber', 'Committees', 'Bills', 'Business Bulletin', 'Official Report', 'Research Briefings', 'Motions & Amendments', 'Parliamentary Procedure', 'Parliamentary Questions & Answers', and 'The Parliamentary Bureau'. The main content area is titled 'Parliamentary Business' and features a large photograph of the interior of the new Parliament building. Text on the page welcomes visitors and provides links to various sections like 'What's New', 'Business Bulletin', 'Official Reports', and 'Minutes of Parliamentary proceedings'. A 'Related Links' box on the right contains links to 'What's New', 'holyrood.tv - live and archive coverage of all business', and 'Business Bulletin'.

The Scottish Parliament launched its new web site, www.scottish.parliament.uk, in September, ready for the opening of the new Parliament building by the Queen at Holyrood on 9th October.

The site is bright and cheerful and very user friendly with the site available in 12 languages and with resizable text for "accessibility". There are sections for young people and lots of history and it is much faster to load than the old site.

There is a very nice picture of the new Parliament building on the home page with the page shown here being at a more "nitty gritty" level.

If you want to see more of the new building, you will be pleased to know that there are "100 photographs of the Scottish Parliament building taken by our Parliamentary photographer" available on the site.

A primer for the acronymmily challenged

Web Acronyms Galore (WAG)

by Alex Heshmaty

HTML - HyperText Markup Language

HTML is the language designed to create *pages* for use on the World Wide Web which look broadly similar whatever the computer on which they are viewed (*platform independent*). People creating documents in HTML *markup* the text by inserting commands called *tags* which indicate how the information is to be presented (size of font, bold, italic etc). The pages are transmitted across the internet using **HTTP**, *HyperText Transport Protocol*.

XHTML - Extensible Hypertext Markup Language

This is essentially a stricter form of HTML which is designed to be an application of XML (see below) and thus to conform to XML standards. One requirement of XHTML is that tags (e.g.) are *well formed* (i.e. properly opened and closed -). It is also designed to ensure that style and content are kept separate (content being part of the XHTML and style being brought in by CSS - Cascading Style Sheets - see below).

XML - Extensible Markup Language

XML is designed to allow programs to easily and universally interpret its data. It is essentially a method of structuring, storing and exchanging information as opposed to HTML which is primarily used to display information. XML tags are used to structure data but are not pre-defined and instead need to be chosen by the data creators. XML standards are often defined for whole industries or types of application within an industry, to facilitate the particular type of data being exchanged.

FTP - File Transfer Protocol

FTP is a way of transferring files across the Internet from one computer to another. FTP clients (programs) are generally used by web developers to move files from their remote computer to the main server from where the website is accessed.

CSS - Cascading Style Sheets

CSS is used to define the stylistic elements of a web page such as colours, fonts and layout. It is basically designed to allow the separation of presentation from content. There can be various style sheets which control the same document according to defined rules which accounts for their description as "cascading."

ASP - Active Server Pages

An ASP is an HTML page that includes embedded ASP scripts (small programs) which are processed on a Microsoft Web server before being sent to the user. ASP is typically used when pages are required to have dynamic or frequently changing content. ASP scripts are usually written in Microsoft's Visual Basic Scripting Edition, a subset of Visual Basic.

CGI - Common Gateway Interface

CGI is a set of rules which allows a web browser to request data from a program which runs on a web server. For example, when a user fills out a form which needs to be processed on the server, the method whereby the form is submitted to the program on the server and a result is sent back to the user is called CGI.

Perl - Practical Extraction and Report Language

Perl is a programming language that was initially designed to be a practical way of extracting and manipulating information from text files. With its versatility and ease of use, Perl is one of the most popular CGI languages. Amongst other things, it can be used for contact forms, guest books, counters, message boards and security checks (such as managing usernames and passwords).

PHP - Programmed Hypertext Preprocessor

PHP is an open source, cross-platform server-side scripting language used to create dynamic web pages. It can be used as an alternative to ASP or the CGI/Perl system. In addition to being a scripting language it can also be used to develop graphical user interfaces.

CMS - Content Management System

A CMS is a program used to create and maintain collaborative content on a website. It allows different authors to manage different sections of a website using individual logins to determine the level of authorisation which is given to each. It can also be used to avoid two authors overwriting each others content by applying version control. It also allows content to be "approved" by editors before going live.

API - Application Programming Interface

An API is a set of rules which allows one piece of software to communicate with another so if a program is being developed to work under, say, Microsoft Windows the programmer will need the API information for Windows. A primary purposes of an API is to provide a set of commonly used functions which can be taken advantage of by programmers, thus saving them the task of programming everything from scratch.

WAP - Wireless Application Protocol

WAP is an open international standard for information services on wireless terminals such as the mobile phone. WAP uses a micro-browser which makes minimal demands on hardware, memory and CPU, thus being perfect for mobile phones. The language used to display information on this browser is called **WML** (Wireless Markup Language) and is based on XML.

RGB - Red Green Blue

RGB colour model is the system used for displaying colours on a computer monitor. Red, green and blue can be combined in various proportion to create other colours and are used for assigning colours in web design.

JPEG - Joint Photographic Experts Group

This is a commonly used method of compressing images for use in a website. It is designed to work particularly well for photographic images or complex paintings with smooth variations of tone and colour. It is known as a "lossy" compression method which means that every time a JPEG file is compressed or rewritten, it loses some of its quality.

GIF - Graphics Interchange Format

Another major image compression method, GIF, originally developed by Compuserve, is used for images with a small number of colours or a large area of a single colour, such as cartoons, line or greyscale drawings. Unlike JPEG it is lossless so it can be opened and saved again in different sizes with no degradation in quality.

MPEG - Moving Picture Experts Group

MPEG develop video and audio encoding standards. "MPEG" also denotes the multimedia files which have been encoded using these standards. The standards are designed to compress sound or video to a high standard so that it is possible to deliver the media over the internet or to store it without requiring too much space. A *decoder* is needed to play the audio or visual information.

PDF (or pdf) - Portable Document Format

This is a method of presenting a printed document on the web so that it still looks like a printed document. The software for this was designed by a company called Adobe. This method is often used for loading up articles, brochures, newsletters etc onto a web site without having to reformat the content (tediously) into HTML.

Javascript

Javascript is a scripting language, designed to be embedded in or used alongside HTML and interact with the browser. It can be used to create some useful functions to add to a web page such as form checking or providing simple calculations, or even just showing the current time and date.

Java

Not to be confused with Javascript, Java is an object-oriented programming language. It can be used to develop small applications called Java applets which can be downloaded from a web server and run on the viewer's own computer through the web browser. Amongst other things, a Java applet could be a complex calculator or a small computer game.

Alex Heshmaty graduated with an LLB (Hons.) in English and European Law at UWE, Bristol in 2000. He became interested in web design and, after training with an ISP in Bristol, became Systems Manager at DiscLaw Publishing Ltd, taking charge of the technical side of web operations at www.emplaw.co.uk. He left DiscLaw earlier this year in order to start his own web design consultancy. Email: alex@heshmaty.com.

New Database of Online Publications

The British and Irish Association of Law Librarians (BIALL) has put together a database called Legal Online Resources Database (LORD) from the major legal publishers on their site at www.biall.org.uk. The database is available on the site without charge, and is designed to answer questions like:

- * What resources are available on employment law?
- * Where can I get access to the Law Reports Online?
- * What are the latest online resources that Lexis-Nexis and Sweet & Maxwell have published?

The register entries are directly input by both the publishers and a team of law librarians. The content is at the moment concentrating on UK and Irish legal resources, but may possibly extend further in the future. Any publisher can contact the development team to apply for access. The database is still being developed but to date has well over 500 resources listed.

BIALL members are being asked to provide reviews for the resources that they take in their organisations; this additional resource will just be made available to members.

Free Legal IT Exhibition and Seminars

Legal IT 2005, www.legalitshow.com, takes place on 9th and 10th February 2005 at the Business Design Centre, London. The event is designed for lawyers in practice, in house or in the public sector and most of the key suppliers of legal software are exhibiting. There is also an extensive series of free seminars concentrating on Case and Practice Management, and particularly on how to manage and update the process. There are talks from Charles Christian, Julian Baker, several of the key legal software suppliers, and a number of firms describing their experiences in implementing and managing such systems. You can register online for the event.

New Sites from Enterprising Barristers

Quite a few barristers provide free legal information on their sites, and some of these sites have now become significant legal resources in their own right - for information on these, see www.venables.co.uk/barx.htm. The latest arrival of this kind of site is **Religion Law UK**, www.religionlaw.co.uk, set up by **Neil Addison**, of New Bailey Chambers, with practical information and relevant web links on the subject of Religion and the Law today. He covers the law relating to criminal and also civil situations where religion is involved and also has sections for case law relevant to religion, with links to the judgments if they are available. There are also reports and articles, a section on international declarations and a very comprehensive set of links to religious bodies under headings of Legal, Catholic, Protestant, Orthodox, Muslim, Jewish, Eastern and General. Neil would welcome contributions from other lawyers to extend the site. He is also the author of the key web site in the area of **Harassment Law**, www.harassment-law.co.uk.

Another new development involving barristers - but this time acting behind a commercial "front" - is **LawOnOrder**, www.lawonorder.co.uk, designed "to provide advice and opinions on all aspects of English law and practice from a chambers of experienced barristers". The fee is £99 plus VAT and there is a 24 hour response guaranteed although the barristers providing the answer and the chambers are not named. Questions can be up to 300 words and answers appear to be of similar length (some samples are given on the site). Although the advice is provided by barristers, LawOnOrder is actually a company and there are some pretty strong disclaimers in place.

Now there are two barristers selling advice from their web site, direct to the public, under the **public access rules**.

John Antell, www.john.antell.name, provides advice on contractual disputes particularly those involving information technology, building, or engineering; unfair dismissal and discrimination; and income tax including PAYE and NIC particularly where employment status is disputed. In many cases, he will provide initial advice for a fixed fee, to assist the client assess the strength of the case.

Dominic Bevis has set up barristerdirect.com. He provides advice on drafting computer contracts to meet the needs of small to mid-size businesses and individuals in, and served by, the technology sector. He is able to draft, review and help negotiate agreements governing the development, licensing and maintenance of computer systems.

I have set up a new web page for legal services provided in this way at www.venables.co.uk/selling.htm (category 6). Please let me know if there are other barristers doing this.

.NET Changes Everything *by Martin Siddle, Pracctice Ltd.*

Practice Management Systems and Case Management systems have gone through many changes over the last fifteen years, both in the functionality they offer and the technologies they use. The latest, and perhaps the most revolutionary, change is the introduction of web based, and particularly, .NET based applications (say it "dot net").

.NET is Microsoft's latest technology whereby systems are developed using a variety of independent Web services to connect and interact with each other as well as having the ability to connect and transfer data between other, larger applications. The .NET technology is available in two flavours, a Windows version for those developers who wish to convert existing code and a pure web based version for those developers who wish to take full advantage of the power of .NET and the growth in the use of the Internet. *For more information about .NET, see Microsoft's own description at www.microsoft.com/net/default.asp.*

The introduction of Web based systems opens the way for lawyers to access their systems via a simple broadband connection regardless of where and when they wish to work. The use of secure web systems will also allow firms to share data with clients and third parties in an easier and more secure fashion. Ultimately the use of these systems will allow firms to interact with clients and potential clients even when the lawyer is not available, meeting Richard Susskind's ideal of "making money while you sleep"

The earliest adopters of web technology in the UK legal market included Pilgrim Systems with the Fee Earner element of their LawSoft product, CMS with their CMS.NET accounts application and FWBS with their Matter Management offering.

However the only UK based supplier to fully embrace the web based version of the Microsoft .NET platform so far, is my own company, Pracctice, www.pracctice.com, with their totally web based and integrated Osprey Practice and Case Management system.

Development started 3 years ago and Pracctice soon realised that as their system was to be a total web based product there was little or no need for a law firm to store the software and related data in their own offices but could run the system remotely. This approach had been tried in the 90's with the likes of Keystone and Axxia offering ASP solutions but these systems never really took off as they relied on expensive communication links, and heavy bandwidth requirements. However six years on and with the new generation of .NET software requiring minimum bandwidth and with the rollout of cheap broadband type access throughout most of the UK, Pracctice felt the time was right to explore the benefits of offering their clients an outsourced and hosted solution.

Having decided that Osprey was to be offered as a hosted service Pracctice had to address three key issues 1) Where would the systems be located? 2) Would lawyers accept having their data and programs stored outside their control? and 3) Would IT Managers agree to the concept of "outsourcing" their systems?

In order to address the issue of location, Pracctice investigated renting space in one of the many empty "secure data centres" left over from the 90's, although this did not prove successful as none of them offered the levels of control, quality of service or guarantees required by

Pracctice and their potential clients. It was therefore decided that the only way forward was, at great expense, to build and furnish their own secure data centre in Hereford. This was completed in early 2004 and has subsequently been supplemented by an additional secure data centre in Gloucester with a mirrored SAN (Storage Area Network) running across the two sites. The combination of the two secure data centres offers levels of security, resilience and "up time" that cannot be provided by the vast majority of law firms. It also offers clients an immediate disaster recovery plan, as should anything prevent a firm working from their own premises they can relocate to any other building with internet access and continue with their work.

Rather surprisingly, the question of acceptance by lawyers and IT Managers has not been a big issue. Partners seem to understand that as long as they have continuous access to their systems and data and that Pracctice can deliver an acceptable level of service, then the location of the servers and data does not matter. Many IT Managers also seem to appreciate that Pracctice can offer levels of security, resilience and data protection that far exceed their own abilities and budgets. Also by removing the need to supply and maintain servers, data base licences and inter office communications, IT Managers can spend more of their time looking after their users and working on the strategic elements of the job.

With the advent of hosted systems also comes the opportunity to change the way law firms think about purchasing IT. For many firms, IT is now a major capital overhead and one that seems to grow each year. The purchase of a new PMS and Case system often exceeds £150,000 especially when the "hidden" costs of upgrading or replacing servers, PC's and operating systems are taken into account. With a hosted system there is no server or operating system to purchase and the programs and data are not located in the law firms' office; thus the system can be viewed more as buying a service rather than a capital investment.

Charles Christian often talks about IT becoming a service to firms in the same way as electricity or the telephone and that IT should be considered as a monthly business overhead, rather than as a one off investment every couple of years. To these ends Pracctice are now also offering Osprey as a rental option.

Since its launch in late February 2004 Osprey and its associated Email system, Groupware has been sold to ten firms with a combined total of over 1,000 users all of whom are using the system as a hosted application with their programs and data stored in the secure data centres and accessing their solution via an internet connection.

Each practice that has purchased Osprey has their own reasons for choosing the system but all of them have stated that the fact that Osprey is available as a "hosted" application has been very attractive as the cost and time savings in not having to worry about servers, database licenses and expensive communication links will provide a quick return on their investment and offers each of them a secure and future proof system.

*Martin Siddle is Marketing Director of Pracctice Ltd, www.pracctice.com.
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Note from Delia: I would welcome further articles on .NET applications from other suppliers or from users of such systems.

Westlaw UK has launched a new subscription service to meet the needs of legal practitioners with a global interest - Westlaw UK Worldwide.

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Lawtel's Legislative Calendar - Delivering the law of the future...

We are excited to announce a new addition to Lawtel - the Lawtel UK & EU Legislative Calendar. As well as delivering the latest legal developments, Lawtel is now able to provide you with access to prospective legal information.

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Legal & Financial offer a wide range of professionally developed websites for solicitors. There are 21 designs to choose from, all fully loaded and interactive, to provide your clients and new visitors with a truly dynamic web experience.

A site costs £175 for the set-up fee (it can be ready within 7-10 days) and then £69.95 a month for hosting, admin and support. There is an integrated Case Status Reporting System available at extra cost which creates a new marketing opportunity, attracts clients, develops & attracts associate contacts and reduces time spent on incoming and outgoing calls.

Access Legal & Financial at www.legalfinancial.co.uk or call Peter Martin on 01202 587787.

Data Protection Compliance for Law Firms

A Training Course from Privacy & Data Protection Ltd, taking place on Thursday 20th January 2005, London.

The course will cover all the data protection compliance issues involved in running a modern legal practice, including:

- Notifications to the Information Commissioner
- Contracts with data processors, such as payroll companies and process servers
- Confidential waste management
- The necessary content of Rule 15 letters
- How to ensure that law firm marketing materials (post and email) comply with the regulations
- How to ensure that the firm's website is data protection compliant

The course is a "short day" (10 am to 4 pm) with lunch included, and is accredited by the Law Society with 5 CPD points. The cost is £395 plus VAT. Visit www.privacydataprotection.co.uk/training for details, telephone 0845 226 5723 or email training@privacydataprotection.co.uk.