

Solicitors Risks In Brief February 2016

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Limitation Act 1980

Any litigator must understand the time limits for bringing claims, but this is not a straightforward area. Two recent cases clarify the Court's approach to limitation. The first considers the starting date under s.14A Limitation Act 1980 (the additional 3 year period for bringing certain claims). The second case deals with s.32 Limitation Act 1980 (which extends time where it is alleged that material facts were deliberately concealed) and is an example of the Court's reluctance to postpone limitation in professional negligence cases.

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Ombudsman update: ADR Directive Consultation

As firms of solicitors will, by now, be aware, from 1 October 2015 they have been obliged to signpost consumers to an "ADR entity" which can handle complaints. The Chartered Trading Standards Institute publishes a list of approved providers who can handle such matters having been authorised to do so in accordance with the EU's ADR Directive. They are called "ADR entities".

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One strike and out - should claims be dismissed summarily for underpayment of court fees?

A recent High Court decision has examined the extent to which Claimants will be penalised by the courts for the underpayment of court fees.

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What a relief - the return of common sense!

The Jackson reforms, which came into effect almost 3 years ago, and its approach to relief from sanctions, resulted in the courts applying a more strict approach to case management and enforcing compliance with rules and court orders than ever before. *Mitchell v News Group Newspapers* set the tone when the court showed a zero tolerance approach to non-compliance.

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"Fraud unravels all"

"Fraud unravels all" was the general principle applied in the recent Supreme Court cases of *Sharland and Gohil*. These cases concerned matrimonial proceedings where the appellants were seeking permission to apply to set aside financial remedy consent orders because of fraud on the part of their spouses.

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The Bowerman duty lives on

Last year, the Court of Appeal handed down a significant judgment in *E.Surv v Goldsmith Williams* [2015], reiterating the need for solicitors to report matters to lenders which may affect the lender's security and clarifying the burden of proof required for claimants in contribution claims.

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