

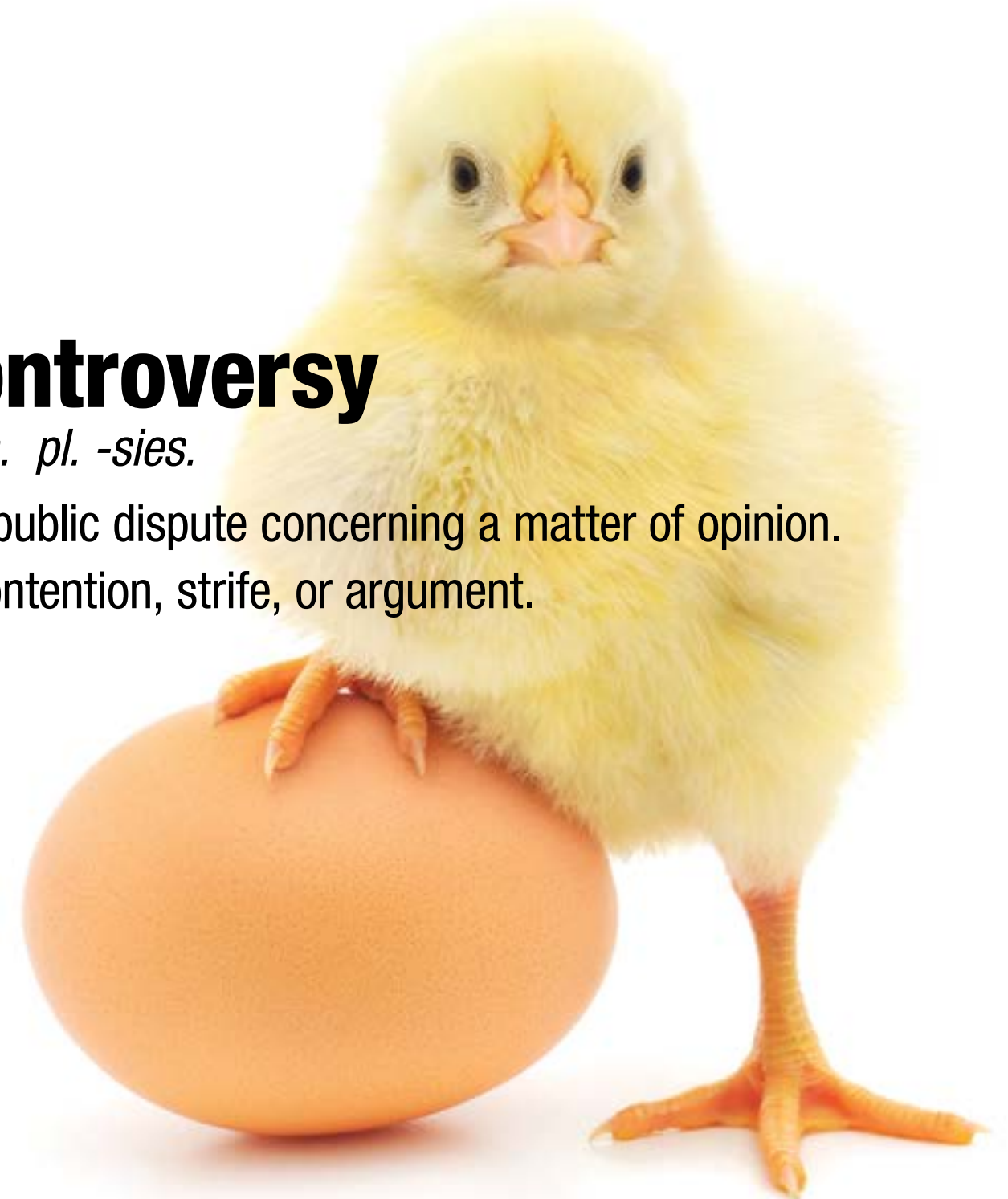
# CitySolicitor

THE MAGAZINE OF THE CITY OF LONDON SOLICITORS' COMPANY AND THE CITY OF LONDON LAW SOCIETY

## Controversy

*noun. pl. -sies.*

1. a public dispute concerning a matter of opinion.
2. contention, strife, or argument.



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EDITOR'S LETTER



*Welcome to the Autumn issue of City Solicitor.*

*The theme for this issue is controversy; a subject that seems to infiltrate every aspect of our lives; from how we work, to what we consume, to our entertainment. It seems today nothing is free of controversy.*

*That even extends to us. Our new look, unveiled last season and taken even further this time, has caused some healthy debate from you all. Some loved it, others preferred it as it was. Some wanted more lifestyle articles, others fewer. At least, it got you talking, thinking and reading!*

*This time we tackle the controversial issues of flexible working and also we look at how the HMRC is accusing law firms of trying to avoid tax. We discuss the never answered and always controversial topic of "what is art?" and review a very much talked about and tendentious play about what happens after The Queen dies and Prince Charles takes over the throne.*

*There's a lot more besides. It's all controversial - and we hope it will ignite your minds.*

*We welcome your thoughts and your contributions.*

*The closing date for any articles for our next issue is October 31st.*

**John Abramson, Editor**

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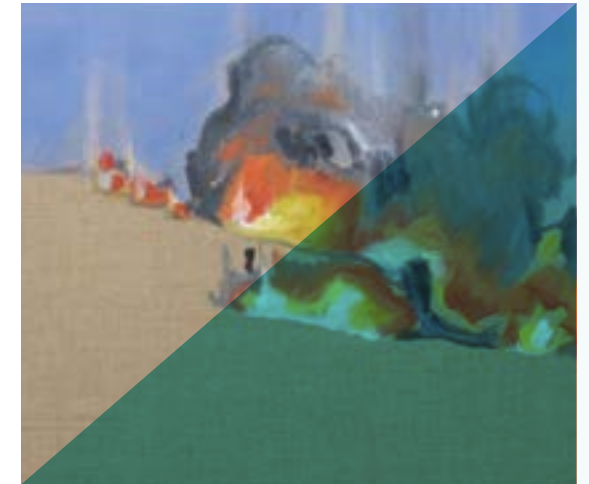


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# FLEXIBLE WORKING

## COMMERCIAL SENSE OR NONSENSE?

**T**his summer the government gave 20 million people the right to request flexible working hours saying it would be good for individuals and increase productivity.

*It was seen as a bold and innovative move. But was it an original thought or simply following, very late, in others footsteps?*

It was about two decades ago that Linklaters introduced flexible working, a move that, at the time, was viewed with great scepticism by other law firms but which proved that sometimes lawyers can be way ahead of the trend.

So, how did that brave move come about and what have been the consequences?

I met with Diana Good at Linklaters' offices. Diana left Linklaters a few years ago but judging by the never ending stream of people who stopped to greet her, chat

with her and pick her brains whilst we were sitting in reception having our interview, she is undoubtedly still a popular and much missed part of the firm with a lot to contribute.

Let's go back to 1995. Diana was then the first and only woman on the board and management committee.

The then Managing Partner tasked her with looking into womens' issues - were there any (with just one represented on the board, did that question even need to be asked?), and, if so, how could these issues be resolved?

As Diana began her investigations, she discovered that Linklaters, and indeed, the industry as a whole, was suffering somewhat of a brain drain. Why was this occurring?

Diana believed that whilst products of the eighties, like her, simply "slogged like crazy and got on with it", the incoming generation in the nineties were taking a very different approach. They were making some very strategic choices about their career - and their

lifestyle. Not content with dedicating their entire lives to the firm, those young people, particularly but not exclusively the women, were jumping ship way before partnership. After about two years of being qualified, these solicitors were looking ahead, seeing that they would be confronting partnership prospects in the midst of the child bearing years - and saw it simply wasn't feasible to have it all.



So they were leaving. In their droves. Getting powerful positions in-house. They were then in roles where they had to engage law firms, and were

not happy to do so where these firms were exclusively male.



Something had to change - and fast. At the time Diana was working in the Brussels office. She had just had her first child and after her maternity leave came back to work to discover very shortly afterwards that she was yet again pregnant - and with twins.

She wasn't keen on letting her senior partner know but his approach was a pragmatic one which was to colour Diana's attitude and lead her to pioneer some very important changes.

He said, simply, that he would rather lose her for a few months in order to keep her for the next thirty years. Which is precisely what happened.

Diana realised that unlike the "grey sloggers" those younger solicitors with the "oomph and imagination to do things differently" needed a very different way of working in order to keep them.

So, Diana put in the proposal for flexible working - and it was met with unanimous support and even a standing ovation.

Interestingly, at the time, Diana herself did not opt for flexible working. However in 2002 after recovering from a serious cancer illness, Diana decided that even the powerhouse that she was needed a "safety net" and cut her time to 60%. But for an outstanding

partner like her, this simply didn't work. In fact, it was impossible. So she upped it to 80%. Even that didn't work on a four out of five days routine so Diana decided to just take longer holidays and simply to give herself "permission" to take some time off occasionally.

She says having put her money where her mouth was is precisely what kept her going "with the energy and oomph I may not have been able to sustain otherwise". Rather than it being despite of her flexible working, one could conclude it was because of it that Diana remained one of the highest performing partners, turning over the highest revenue, working the longest hours and having the highest profile. She says that quite simply she "had more head space" as a result of her flexible arrangement and that allowed her "to approach work with more vigour and energy".

Diana is very vocal in asserting that flexible working is a very different concept from part time and should never be confused with under performance.

"If a client wants a conference call on a Saturday at 10pm, you can't say sorry I can't do it".

Despite Diana's encouragement that flexible working should be transparent and open, a lot of people are still loathe to announce their arrangements, which Diana feels is sad.

After the proposal was approved "the floodgates never opened". Diana believes that it requires "immense discipline" to manage flexible working. She says that even while working 80% she still had 100% (and more) of her workload so in essence you are making a financial sacrifice (the financial cut is in direct correlation) for the sake of your well-being and sanity.

At the time the "big law firms poo-pooed what Linklaters were doing and thought they had "lost the plot"

but "rapidly saw the necessity to do it themselves."

Diana says clients are rarely aware of their partners working flexibly as "A types like me are constantly available, I was brought up to be available at 6am or 11pm and it's a deep rooted habit to constantly be checking e-mails". She is confident that "flexible working

**"IF A CLIENT WANTS A CONFERENCE CALL ON A SATURDAY AT 10PM, YOU CAN'T SAY SORRY I CAN'T DO IT."**

need not affect our business, or that of others, when managed by high performing people".

Quite the opposite actually as Diana believes when people are "exhausted and relentlessly working long hours, they cannot be at their best".

Today there are lots more women partners at Linklaters and Diana feels that flexible working must have been a contributor to this.





She is, however, still concerned about "relentless working. 17 hour days. Working 3 out of 4 weekends. This just isn't sustainable".

However globalisation and 24/7 accessibility have meant partners are expected to respond immediately; Diana tells of one partner who was responding to her client's e-mails in the middle of giving birth!

I met also with Vanessa Harvard-Williams, a current partner at Linklaters who is taking advantage of the scheme put in place by Diana so long ago.

**"IN A SERVICE PROFESSION LIKE OURS, PEOPLE ARE STILL UNCOMFORTABLE TALKING ABOUT IT".**

Vanessa told me that in the London office today 24% of the partners are female - a far cry from Diana's early days. Vanessa was unsure precisely how many partners work flexibly and said "in a service profession like ours, people are still uncomfortable talking about it".

Vanessa initially started on a 90% working arrangement in 2006 and found very quickly she simply couldn't regularly take a day a fortnight off so rather she "banked the time". Today

she has cut back to 80% and takes it as a long break in the summer, longer breaks at Christmas and Easter and the rest opportunistically.

Like Diana, she started doing flexible working after she had two small children and became ill from pneumonia. She knew she was working herself way too hard and that she simply couldn't continue as she was.

She says even though she is only working 80% of the hours now, she still has 95% of her workload but she firmly believes that "it is worth it".

She says having time away from the office as well as giving her the obvious extra quality time with her husband and family and time for herself also "gives me the time and space to think strategically about the business". Her team know that even when she isn't in the office she is always available and she is always on her Blackberry.

Vanessa says for flexible arrangements to work "you have to feel comfortable with it in yourself". She is sad that in the City there is still a culture "that presence is an indicator rather than delivery" and "whilst we continue to sell time based units' things cannot change fully for the better".

Again, in agreement with Diana, Vanessa feels that whilst flexible working is one step to make things better, there is still a lot of work to be done.



**"IT SIMPLY DOESN'T MATTER WHERE PEOPLE DO WHAT THEY DO, AS LONG AS THEY DELIVER".**

She believes that "men and women speak very differently about themselves and women are generally less overt about their ambition. They can be more low key in how they voice ambition and this means they may take longer to progress. Work has to be done to understand these differences



and try and address any unconscious bias. Flexible working is just one small part of this. It's still a minority who take it up. We need to show that not only can it be do-able, it can also be very important particularly at that relatively short term point of your career when small kids mean you have very significant physical demands".

Vanessa is adamant that "it simply doesn't matter WHERE people do what they do, as long as they deliver".

Talking to both these women made it apparent that businesses do not lose in the slightest through flexible working. In short they pay less and get the same amount of work - but delivered from people who are fresher, sharper, less exhausted, more alert.

What a pity that it has taken the rest of industry twenty years to follow.

# SALARIED EMPLOYEE OR LEGITTIMATE PARTNER?



**A**gainst huge opposition from solicitors, this year's Finance Act, which became law in July, introduced legislative tests effective from April to determine whether a member of an LLP was truly engaged on terms economically equivalent to a partner in a partnership, and if they were not, to tax them as if they were salaried employees. The legislative change affects the tax status of individuals only, but that's enough to be a big problem: where it applies, a partner's drawings will become subject to a 13.8% employer's National Insurance charge which previously did not arise.

When the proposals were first advanced, LLPs were painted by HMRC as devices to "disguise" employment and so "avoid" employment taxes, implying a degree of impropriety, when in the overwhelming majority of cases firms would say they were applying clear existing law in accordance with government policy.

Needless to say the Law Society opposed the proposals, and indeed the House of Lords' Economic Affairs Committee recommended that their implementation be delayed a year as business had been given insufficient time to respond to the changes. However, the government pressed ahead regardless with the 2014 start date.

Yvonne Gallagher of Wragge Lawrance Graham & Co believes the 2000 legislation where the liability aspect of partnerships was altered had "paved the way for other changes to follow, so this latest move was hardly surprising." She believes it takes about "10 years after a new piece of legislation to really see where it is going."

The legislation was in a way given more legs by the ruling in *Clyde & Co LLP v Bates Van Winkelhof*. In this very important case the Supreme Court held that members of LLPs are workers for the purposes of whistleblowing protection.

The conclusion of Lady Hale (who gave the leading judgment) was that Ms Bates Van Winkelhof was a worker because she "could not market her services as a solicitor to anyone other than the LLP and was an integral part of their business. They were in no sense her client or customer".

Ms Gallagher feels this ruling was "inevitable". A consequence of this decision is that LLP members are also entitled to further rights, including paid holiday and the right to be automatically enrolled into a qualifying pension scheme, amongst others.

Whilst this decision is completely separate to the new HMRC rules on salaried member status, it has to have influenced for how can an LLP member be considered a worker on the one hand (when it comes to whistleblowing) but a partner on the other (when it comes to tax)?

Ms Gallagher says that "once HMRC formed the notion that LLP structures were being used to minimise NI liability, they were bound to seek to attack that and the issue is to be viewed as a revenue raising tactic which may be unlikely to succeed, given that firms have largely adjusted their structures to keep partners outside the revised tax provisions."

**THEY ARE A LONG WAY FROM THE END OF THE WORLD, AND WE WILL GET USED TO THEM.**



Gallagher takes a very measured approach to the new changes, saying "they are a long way from the end of the world, and we will get used to them." Gallagher says what is still unclear is whether LLPs will have to enrol their members into the new government pension schemes - and they could face regulatory penalties if they fail to do this. She says that the pensions regulator is currently looking into this and "maybe this is where the reach of employment law is going further than it should and interfering with people who are able to look after themselves."

She believes the bigger picture "is one of an evolving analysis of the nature and liabilities of the LLP vehicle and its interaction with old style partnership law, corporate law and employment law."

Simon Yates of Travers Smith is the Chair of the CLLS Revenue Law Committee. He agrees that something probably had to be done. However, he is strongly of the view that this wasn't that something.

"The real problem here is that the cost of employer's National Insurance has risen to a level out of all proportion to the corresponding benefits a business can claim where staff are employed as opposed to self-employed. So if a structural alternative exists to prevent that NI arising without any suggestion of impropriety, any business would choose that alternative."

In that context Yates' view is that it is not surprising that some change was felt necessary to remove that structural alternative, which was conferred by the 2000 legislation enacted on the introduction of LLPs and which undeniably went further than the then professed policy of delivering equality between LLPs and other partnerships. However, what is less clear to him is why it was necessary to go further than simply removing the statutory presumptions of non-employment for LLP members created at that time, and so placing UK LLPs on the same footing as overseas LLPs carrying on business in the UK.

"It is nothing short of madness to create a regime that taxes people working for British firms, but not the

same people working on the same terms for the British offices of overseas firms. It's completely conceptually illogical and profoundly anti-competitive. It's likely to be a particular problem in the context of partner hires where it is common practice to guarantee a joiner a certain minimum level of drawings in the first year or two - HMRC have made it clear that they see this kind of arrangement as most likely to fall foul of the rules - but may also be a problem for junior partners more generally. Why should a UK firm recruiting on those terms have to pay 13.8% of tax which the London office of a US firm does not? It's a straight tax penalty on UK businesses."

Yates spoke of the three tests taken to determine whether one is truly a partner: whether one's remuneration is truly based on the profit of the business as a whole, whether one has a significant role in the management of the business, and whether one has made a high enough level of capital investment in the LLP (which is deemed to be 25% of the non-variable element of one's total profit share). If an individual is a partner by any of the three measures, he escapes the new rules.

"What we've seen is a lot of businesses reacting to the rules by requiring individuals who would otherwise be salaried members to contribute capital to meet the third test. This of course is capital that those businesses don't need: if they did need it, it would already be there. It's only being injected to tick a tax box, and just sits in a deposit account. At a time when economic recovery is still in its early stages, why are we creating an incentive to tie up capital inefficiently which would otherwise be likely to be invested more usefully or spent in the consumer economy? It's genuinely crazy."

Despite HMRC's initial consultation document on the measures presenting them as largely avoidance driven, the Government has subsequently conceded that they are more a revenue-raising change in policy (in other words, importantly, admitting that LLPs taking advantage of the lack of employer's NI on payments to members were doing nothing wrong). Yates is sceptical as to whether the hoped-for revenue will materialise.



**IT'S COMPLETELY CONCEPTUALLY ILLOGICAL AND PROFOUNDLY ANTI-COMPETITIVE.**

"The fact is that the legislation contains its own opt-out via the capital contribution route. HMRC have acknowledged in consultation discussions that this is intended. This of itself is a very strange piece of policy-making. But it does make it look likely that the revenue targets for the measure will not be met, which in turn creates a worry that changes may follow to attempt to fill the hole."

In the meantime a lot of organisations have spent a large amount of management time which would have been better spent developing their businesses assessing the impact of the measures on themselves, and a government which is committed to creating a stable and predictable

tax regime has achieved the exact opposite. Also, that same government is ostensibly committed to tax simplification, but has rejected the option of levelling the partnership playing field by repealing a couple of short provisions, and instead created a complex new code running to many pages, along with a veritable encyclopaedia of accompanying guidance. In all likelihood to very little avail.

Surely the most pertinent point is irrespective of whether the thinking behind the legislation was fair or not, and whether it was inevitable or not, a huge amount of scarce government resource and business management time has been expended on measures which are likely to achieve very little.

# What we've BEEN UP TO

The Company's AGM took place on 16th June 2014 and the following presentations were made in honour and recognition of achievements during the last year.

## THE DISTINGUISHED SERVICE AWARD

The Award for 2014 was presented to Rupert Jones of Weil Gotshal & Manges in recognition of his service and outstanding contribution as Chairman of the "Future of the Livery" Working Party which worked for over 18 months to produce a report and recommendations to strengthen and secure the Company for the foreseeable future. Rupert is pictured below (left) with the Immediate Past Master, David McIntosh, Q.C. (Hon)



## THE COMPANY PRIZE

The Company Prize for 2014 was awarded to Daniel Lund, a trainee with Dechert LLP. This award is made each year to a trainee at a City firm who has gained a distinction on the Legal Practice Course and who, based on an essay competition and interview, shows the most promise as a future City Solicitor. Daniel Lund is pictured (left) with Tony King, Chairman of the City of London Law Society Training Committee.



## INTER-FIRM CLAY PIGEON SHOOTING TROPHY

The winning team for 2013 was Eleanor Shanks of Dentons UKMEA LLP (pictured above) and Wayne McArdle of Gibson Dunn & Crutcher LLP.

## INTER-LIVERY ANNUAL CLAY PIGEON SHOOT

The Company's team of Eleanor Shanks, Tom Verrill, David Perks and Ted Mercer came 15th out of 100 teams in the Competition.



## GOLF

The Prince Arthur Cup Inter-Livery Golf Competition was held on 15th May at Walton Heath and the Company's team of Anthony Surtees, Keith Gallon, Steven Turnbull and Francis Donagh finished 15th out of 56 teams. The Annual Three-Way Golf Competition with the Chartered Surveyors' and Chartered Accountants' Companies will be held at Walton Heath on 30th September. Anyone interested in joining the Solicitors' Team should contact the Clerk at mail@citysolicitors.org.uk.

## INTER-LIVERY BRIDGE COMPETITION

Mark Nichols and Roy Griggs represented the Company at the Inter-Livery Bridge Competition on 3rd March 2014 at Drapers' Hall and came 13th out of 64 teams competing.



## THE NEW MASTER

Alderman Vincent Keaveny (far right) was installed as the new Master of the Company at the AGM. He is pictured with the Clerk, Neil Cameron (left) and Liveryman, His Honour Michael Chism (centre).

Our congratulations to them all.

# What's COMING UP



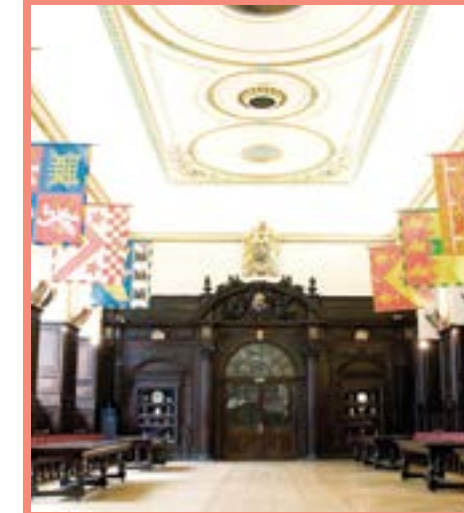
## 20.11.14 LIVERY DINNER 2014 - STATIONERS' HALL

This year's Livery Dinner will take place on Thursday 20th November 2014 and Liverymen are invited to join the Master and Wardens at the historic Stationers' Hall.

Home to the Worshipful Company of Stationers and Newspaper Makers, the Hall has stood on this site since 1606. The present building was built in 1673 following the destruction of the original hall in the Great Fire. Its facade was radically altered in 1800 to bring it up to date (according to 19th century tastes). The Hall, which is situated close to St Paul's Cathedral, also has its own secluded garden. The Livery Hall is the largest and grandest of the rooms with oak floors and stained glass windows showing Shakespeare and Edward IV.

We are privileged to have the use of the Hall for our Livery Dinner and we encourage all Liverymen to join the Master and Wardens. Tickets and more details are available from the Clerk.

For more information about becoming a Liveryman of the Company, please contact the Clerk at mail@citysolicitors.org.uk.



## 08.11.14 LORD MAYOR'S SHOW 2014

On Saturday 8th November the City of London Solicitors' Company will once again enter into the spirit of the Lord Mayor's Show to mark the swearing in of the 687th Lord Mayor. This year's Show theme is "Creating Wealth, Giving Time, Supporting People" and the Company is delighted to be working with Harlesden-based Mahogany Carnival once again to create a float under the banner of "Legal Eagles" with magnificent over-sized legal figures including angels, eagles and lions to entertain the crowds lining the route.

Now a spectacular parade which is the highlight of the City's calendar, the Show is based on the historical requirement that every newly-elected Lord Mayor should have to leave the safety of the City of London to swear loyalty to the Crown at Westminster.

Over the centuries this journey has been traditionally taken by river (using barges, hence the term "floats") and horseback before moving to the magnificent State Coach used today. This ancient tradition is now a modern procession and at over three miles long, it fills the entire space between Bank and Aldwych, where the oath is now taken at the Royal Courts of Justice.

Around half a million people line the route and millions more watch a live broadcast by the BBC each year.

The Company has been a regular part of the Lord Mayor's Show since 1980. We are always looking for members to join us on our float, so please contact the Clerk (mail@citysolicitors.org.uk) if you would like to take part in this unique City experience. The photos above will give you a flavour of our entries in recent years.



Image courtesy of The Almeida Theatre

# THE QUEEN IS DEAD LONG LIVE THE KING

MAROUILLA PAUL REVIEWS THE HIGHLY CONTROVERSIAL KING CHARLES III WHICH OPENS IN THE WEST END THIS SEPTEMBER.

If Shakespeare were alive, King Charles III could be very easily be attributed to him; it has all his trademarks.

The subject matter; a British monarch. After the many Henrys, the two Richards and the single John, now it's time for a Charles.

The story; a King in dilemma; his family plotting against him. Think King Lear and multiply the treachery, the anguish, the betrayal and you are getting close.

The characters; apart from the tormented King, there's a Lady Macbeth in the making - ruthlessly ambitious and cajoling her husband (the King's rather wet son) into action with lure of herself. There's a Hamletesque ghost (but of the female persuasion) who with her prophetic guidance manages to wreak havoc even from the other side of the grave. There's the wayward son

and his lover; doomed to destiny by his ultimate lack of courage and conviction.

Written in blank verse, this, indeed, could be another Shakespearean history.

But there is one thing that greatly differentiates it; it is not a retrospective piece based on fact but set in the future and all speculation. When in the future, who knows? It could be tomorrow; it could be next year.

In short, it is whenever Queen Elizabeth II dies as this play begins with her funeral.

King Charles III is a play which surmises what could happen after the death of the present monarch and when the Prince of Wales becomes king. It is written by Mike Bartlett and directed by Rupert Goold and was (another) sell out production at the Almeida in the spring.

The Almeida seems on a roll this year (again!) with American Psycho and 1984 both under its belt as major successes.

King Charles III was no exception and fortunately for those who despite queuing through the night in the hope of getting day seats or cancellations failed, this incredibly slick, polished and thought provoking piece has transferred to the West End and will be running for a limited season at the Wyndham's Theatre from September 2 until 29 November.

**"STEAL OR EVEN KILL TO GET A TICKET. THIS IS NOT TO BE MISSED."**

It is dramatic, funny, sad, dark, satirical, entertaining - and worrying.

Stunningly acted, Tim Pigott-Smith as Prince Charles portrays a man uncomfortable with himself, his position and with others. Camilla (played by Margot Leicester) stands by him throughout, supporting and advising; sometimes none too wisely.

William and Harry (played by Oliver Chris and Richard Goulding) are shown in a light we would, perhaps, not expect.

Whilst most of the characters are instantly recognisable, the Labour PM left me wondering who he was supposed to be. Definitely not Ed. Maybe Bartlett is one of those in the camp believing Ed should be replaced?

The play tackles the freedom of the press and what right they have to invade the privacy of others. Definitely a contemporary issue.



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But, more interestingly, it deals with what happens when a monarch disagrees with what his government want to do. (Definitely some interesting legal issues covered here!)

In real life, Prince Charles has always been known for speaking his opinion, for his handwritten letters to cabinet ministers urging them to behave in certain ways over education, the environment and other matters that normally royalty stay silent on.

**"ON EVERY LEVEL THIS PLAY SUCCEEDS".**

So this play is merely taking it a step further and questioning what could actually happen when Prince Charles is in a position to effectively block government decisions he disagrees with.

On a more human level, it tackles greed, conscience, family, loyalty, ambition, love - all with incredible insight, dark humour and deep perception and observation. On every level this play succeeds. What I found most incredible is how it manages to completely change what we think of each member of the Royal Family.

The next day I tried to convince myself it is just a play so shouldn't affect how I perceive these individuals. Then it dawned on me that all of my perceptions, right or wrong, are based on what the media want us to believe as none of us actually know the reality. Maybe this was another important point Bartlett wanted to put across.

This play stayed with me for weeks; it is multi-layered and I would say as good as any Shakespeare history I have seen - maybe better. And most of us will in our lifetimes be able to judge whether it was wild imaginings for the sake of theatre or if it was prophetic; either way it is nothing short of controversial.

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# BUT IS IT ART?

MAROULLA PAUL SPEAKS TO  
DANI HUMBERSTONE AND TAMSIN RELLY,  
ABOUT WHAT THEY CONSIDER TO BE ART.

We live in a world where so many things, from the gadgets we squeeze our lemons with to interactive images created through technology are considered “art”. But what is “art”? Maroulla Paul examined the facts and talked to two established artists to see if there is a definition we can all agree on.

In 2010, the highly controversial artist, Ai Weiwei, filled the Turbine Hall of the Tate Modern with 100,000,000 sunflower seeds handcrafted in porcelain by over 1600 artisans. These weighed over 150 tons and took over two and a half years to produce. The exhibit, in varying forms of different amounts and weights has, in its lifetime, been shown in nine different countries all over the world. Thought to be the most expensive artwork ever produced, each seed is unique, different from all the others. Yet, on first impression, they all appear identical.

But are they art?

Weiwei sees them not as one piece of art, but as a hundred million pieces with social, political and economic undertones. For him, they represent the Chinese, each one different, but when together, so powerful as a force. “Seeds grow” he says, “the crowd will have its way one day.” To some, the sunflowers seeds were “seeds of hope” “contemplative and barbed” “part prophecy and part threat”. To others, they were a huge amount of porcelain seeds, no more, no less.

What some consider great art, others simply don’t get. The debate around “what is art” has been a controversial one that has never truly been answered.

The dictionary definition seems clear, concise and apt:

“the expression or application of human creative skill and imagination, typically in a visual form such as painting or sculpture, producing works to be appreciated primarily for their beauty or emotional power”.

But, sadly, more recent attempts to answer this unanswerable question are linking whether something is art to whether it has a commercial value.



A RAINBOW IS BEAUTIFUL, IT IS TRUE, BUT IT'S NOT ART.



I spoke to two highly respected and established artists, Dani Humberstone and Tamsin Relly, about what they considered art to be.

I met Dani at the Mall Galleries where she was doing a live painting of a giant strawberry during the SWA (Society of Women Artists) Annual Open where she was exhibiting.

Dani is a full member of SWA which only comes about after you have been regularly submitting work and then you have six entries all accepted; this grants you associate membership and full membership comes when you get another six accepted the following year. No easy feat.

I asked Dani how she came to become an artist, she replied that she couldn't ever remember not being one. Her mum actually bought her her first easel and paints when she was 18 months old - and thought this was a normal thing for a parent to do.

Dani dabbled with various styles and settled on abstracts before morphing to fruit, both real and surreal, and these now form the backbone of her work. The transition was not a "conscious choice", she says, "it just happened".

She likens it to "just wandering around after something. It leads you".

Dani says her fruit are symbols of people; like fruit, humans are fragile, living things that scar easily.

Asked "what is art?" she says that is "very difficult to define but that it has to be based around telling a story and trying to do that in the most truthful way possible. It's about seeing that nothing is ordinary, that actually everything is extraordinary if you look with different eyes and really see. A rainbow is beautiful, it is true. But it's not art. Art has to be produced by a human being. Artists respond to the world they live in right now. It is an emotional and intellectual response. For Weiwei, his art is pertinent to his experience of China; for someone living in Kent or Sussex, like myself, with no such dramas the response is very different but equally valid. Authenticity is key".

Dani believes that although art is not essential to life from a practical perspective in that it cannot house or feed you, nonetheless it is essential in being a person. "As soon as we made anything that wasn't essential, we made art" She sees art as "our way of reflecting back the big subjects; love, sex, politics, war, religion, money, ambition".

Whilst she agrees that there is a need in most artists for validation; it is not that validation that determines whether it is art, citing Van Gogh who rarely sold a painting in his lifetime.

Tracking down Ms Relly was a much more difficult feat as she seems to be constantly in far flung parts of the globe in pursuit of inspiration and research to further her art.

I first spoke to her whilst she was on the Gerzon Zevi Land Art Road Trip; a month long travelling residency camping through the iconic Land art sites and landscapes of the American South-West including Robert Smithson's Spiral Jetty and Nancy Holt's Sun Tunnels. We resumed our conversation back in London before she disappears off again in October to the Arctic Circle on a residency which combines artists, scientists, architects, educators and others all living together on a sailing vessel and working to expand each others' perspectives and to create new, collaborative works.

I asked her to describe her work. "My practice includes painting, print and drawing and explores the effects

of contemporary consumer-based lifestyles on the balance of the Earth's ecosystem. Drawing from snapshots of day-to-day life, nature and images found in the media I work with the fluid and unpredictable qualities of my materials, to present impressions of urban and natural environments in states of uncertainty or degeneration".

Tamsin laughed when asked to define art and said "Oh boy, that's probably about as slippery to answer as the meaning of life, but an important question to keep asking.

"I think art and its definition can take many forms and purposes, depending on context, culture, maker and viewer.

But perhaps in its very reluctance to be pinned down, is where art making gives us that open space to explore the bigger

A WORK CAN TELL YOU SOMETHING DIFFERENT EACH TIME YOU EXPERIENCE IT.



unanswerable questions in life and attempt to make sense of the world - through metaphor and the indefinable.

What interests me is: does a piece of work make me feel something exciting or shift my perception and make me think differently about something? Does it reveal something? It may be simply in the sensory experience of the work or through understanding more about the process or motivations of the artists.

I think art and art making is a conversation - between the artist and the work and then between the work and the viewer. And it is very alive; the process and the viewing; a work can tell you something different each time you experience it".

Interestingly, like Dani, Tamsin also referenced Ai Weiwei.

"I am so moved by Ai Weiwei's work, his personal values are completely aligned with his art making. His work, through its poetry, addresses and reveals important social issues that people are faced with in their every day life - which so much of the world's politics can too easily overlook or brush beneath the carpet. Art is a discipline and language that can do that: it invites us to look at things through a different lens".

I asked Tamsin if she felt there was any merit in the theory of art only being defined as such if it had commercial value.

She correctly observed that this was "simply in keeping with the trend in many areas of contemporary global culture - where everything, down to the DNA of a tomato seed, is commodified and valued only by its price tag?"

So, are we any wiser?

Is Phillippe Starck's lemon squeezer as valid a piece of art as Michelangelo's David? Can we put Emin's bed in the same category as the Mona Lisa? Is will.i.am's #pyramidi to be compared with the Golden Death Mask of Tutankhamun?

Art may ultimately not be wholly definable but it exists and if it is man made and it moves us in some way then there is no doubt our lives would be a lot poorer without it.

Both Dani and Tamsin are exhibiting in London.

Dani will be exhibiting at the STRARTA Art Fair at the Saatchi Gallery from 25 - 29 September 2014.

[www.strarta.com](http://www.strarta.com)  
[www.saatchigallery.com](http://www.saatchigallery.com)

Her work is permanently represented through Saffron Gallery in Battle.  
[www.saffrongallery.co.uk](http://www.saffrongallery.co.uk)

Tamsin has a solo exhibit; JUNGLE SNOW - a series of new paintings and works on paper at The Place Downstairs, 11 Canonbury Place, N1 2NO from 16 September - 14 October.  
[www.tamsinrely.com/exhibitions/junglesnow](http://www.tamsinrely.com/exhibitions/junglesnow)

She will also be exhibiting at the Multiplied Print Fair at Christies with Alteria Art from 17-20 October.  
[www.multipliedartfair.com](http://www.multipliedartfair.com)





FOX SEES

# CONTROVERSY EVERYWHERE...

*even in the world of classic cars*

*By Past Master Ronnie Fox / Motoring Correspondent of City Solicitor*



One might hope that as the human species develops, we would become more mature, more civilised and more closely focussed on promoting peace and harmony. Sadly, I perceive the opposite has turned out to be the case.

This year is the anniversary of the commencement of World War I. Perhaps 10 million lives were lost on the battlefield. It was the war to end all wars. As I write this column the news is of loss of innocent lives in the Ukraine and in the Middle East. Many fear a major conflagration.

Closer to home, Legal Week has reported 533 partner terminations in 2013/14 across the 20 largest (by revenue) law firms in the U.K. Because this is my area of practice, I know that the increasing rate of partner turnover at major law firms is often prompted by unlawful discrimination, petty departmental rivalry, internal jealousies and the pressure of external competition. The legal profession is losing the battle to uphold the highest ethical standards at the same time as functioning as an efficient market-place for purchasers of legal services.

Within the world of motoring too, there is much controversy. The specific area to which I now draw attention is the dispute between those whom I describe as the conservationists – who

believe that cherished vintage and veteran cars should be preserved in as near as possible to pristine condition in museums – and those (whom I regard as true motoring enthusiasts) – who believe that cars should be properly maintained in working order and so far as practicable driven whatever their age and condition.

Both factions can generate great motoring experiences. I have previously written about the wonderful collection at the National Motor Museum in Beaulieu, and the amazing selection of rare, exotic and classic cars owned by Norwegian businessman Andreas Ugland and displayed at the Cayman Motor Museum. This Summer I am looking forward to a privately arranged visit to the world famous Louwman Museum in the Hague, said to be the world's oldest private collection of motor cars, curated by two generations of the Louwman family. I have long nursed a wish to visit the huge collection assembled by the Schlumpf brothers at Mulhouse (surely the only museum with two Bugatti Royales).

At the other extreme one of life's greatest motoring experiences has to be participation in the London to Brighton Veteran Car for pre-1905 vehicles. Now organized by the Royal Automobile Club this is the longest-running motoring event in

the world and each year attracts 100's of entries. One has to admire owners who cheerfully take the risks both of damage to their valuable cars and personal injury resulting from unavoidable accidents. (The wonderful 1902 Peugeot about which I wrote in November 2012 suffered serious damage in a subsequent run and is currently being rebuilt with a view to participating in 2015 events.)

In every area of controversy, resolution by compromise is always best. This June I attended two remarkable car runs to which many vehicles had been brought on trailers but at which all the cars were driven. The first was the amazing Fête Champêtre & Concours D'Elégance held at the Hurlingham Club in Fulham. Most of the cars displayed were owned by Club members; all were driven around by their owners with such evident pride and enthusiasm that occasional inaccuracies in the descriptions of the cars could readily be forgiven. The accompanying pictures were taken at the Hurlingham. The other was a run for around 20 cars dating back to 1897 arranged by the Veteran Car Club which started and finished at Girton College, Cambridge. On each occasion hearing the sounds and breathing the smells emitted by the cars formed part of an unforgettable experience, a world away from merely admiring works of art in a museum.

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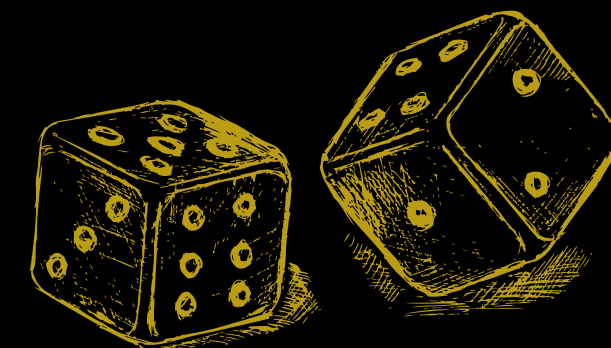
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ONE LAST THING...  
WHICH MAY LEAVE YOU

# AT SIXES AND SEVENS

If you try and figure out the origins of the expression "at sixes and sevens" you are likely to end up feeling it rather than being any clearer.



It is widely accepted that the phrase originated from an ancient dispute between two Livery Companies; the Merchant Taylors and Skinners. For over a hundred years the two companies were at loggerheads as to which was sixth in order of precedence as they were both formed in the same year. It wasn't until the Lord Mayor of London, Sir Robert Billesden stepped in that the dispute was resolved. He ordained that on the feast of Corpus Christi each year the companies would swap between sixth and seventh place and dine at each other's Halls. This was in 1484 and the tradition still continues today.

### But is it that straightforward?

Another school of thought is that the phrase originated from a French dice game called "hazard". The riskiest numbers to "set upon" or shoot for were five and six (cinque et six) and so anyone attempting this must be confused.

But how, well may you ask, do fives and sixes become sixes and sevens?

Various solutions have been proffered including that the English simply muddled up the French numbers, that in the telling the numbers got changed, that seven was added in because it is an impossible number to throw and that six and seven add up to 13 which has always been considered unlucky in European culture.

Some even suggest it goes right back to the Bible; in King James version, at Job 5:19, we read...

*"He shall deliver thee in six troubles; yea, in seven shall no evil touch thee".*

### But what does this mean?

In 1375, Chaucer, in his Troilus and Criseyde, talked of setting the world "at six and seven". This was a good century before the Livery dispute at least proving the expression did not originate with them.

Definitely a controversial issue this one that doubtless has left you at sixes and sevens!