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Helping businesses protect and enhance what really matters



Belfast's reputation on the global stage as a hotbed for talent and opportunity is growing by the day.

This prominence as a source of skill makes the city a natural fit for Lewis Silkin, a leading law firm that has two things at its core: people – both its clients and its own team – and a focus on creativity, technology and innovation.

Lewis Silkin NI LLP began operating in Northern Ireland in August 2021 by joining forces with specialist Belfast-based employment law firm Jones Cassidy Brett (JCB).

Lewis Silkin is known globally for its employment law expertise and is home to one of the largest employment practices in the UK while JCB's 30-year history as the pre-eminent employment law firm in Belfast made the partnership a natural fit.

The new Northern Ireland practice grew quickly with the establishment of a business immigration practice to become one of Northern Ireland's most dynamic employment law firms.

In January 2022 the Belfast office dramatically expanded its skills base to include a whole new offering. Tech law firm Forde Campbell LLC, long recognised for its market-leading specialisms in IT and IP, joined forces with Lewis Silkin NI.

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Ciara Fulton, Partner, heads up Lewis Silkin's Northern Ireland practice which consists of five partners and a wider team of 20 based in Belfast.

Lewis Silkin's growth in Northern Ireland is not its first active role in the market on the island of Ireland.

The business established a Dublin office in 2018, headed by Slobhra Rush.

Taken together, the offices provide clients across the island of Ireland and beyond with seamless access to best in class advice.



Employment law: navigating the brave new world of hybrid working

“The Covid-19 pandemic has considerably changed the employment law landscape in Northern Ireland over the last two years and the challenge for employers is often keeping up to date with developments in this area,” says **Ciara Fulton**.

As we wait for the official guidance on working from home to be lifted, many employers are considering a switch to hybrid working – a combination of home working and office working. Ciara says that they should be considering a number of steps.

Analyse your business requirements: Carefully analyse your business requirements, and the implications these may have for hybrid working. For example, is there a minimum number of workers needed in the workplace at any time? Do employees need to attend client sites? There are also practical considerations including whether you have available technology and equipment to enable hybrid working.

Communicate with your employees: It's important to consult with your employees (and trade unions as appropriate) about plans to return to the office and

the potential for hybrid working. Don't assume you know what employees' work preferences are – ask them how they would ideally like to work.

Decide whether hybrid working suits your organisation: If it does, what form should it take? Things to consider include whether all job roles are suitable for hybrid working, and how it would work at a team level. When employees are working remotely, are you happy for them to work anywhere? Working abroad raises tax, immigration, data protection and other considerations which have to be carefully considered. It's also worth considering whether hybrid working will be permanent or trialled on a temporary basis.

Flexible working: Whilst employees with at least 26 weeks' service have a right to request flexible working, they do not have

a right to change existing working arrangements. You can reject flexible working requests for one of eight business reasons including costs, inability to reorganise work and customer demand issues. Tread carefully, however, as refusing a request may bring the risk of an indirect discrimination claim if the employee has a protected characteristic such as childcare needs or perhaps because of a disability.

Update your policies and procedures: If a decision is made to introduce hybrid working (or to continue homeworking) any relevant policies and procedures (for example on flexible working, IT, homeworking, data protection and expenses) need to be updated.

Consider health and safety: Before allowing employees to return to the workplace, you must follow government and legal

guidelines to ensure a Covid-19 secure workplace. This also applies to employees working remotely.

Review terms and conditions of employment: Hybrid working may amount to a formal change to terms and conditions of employment (where employees make a request through a flexible working policy and the request is accepted) but it can also be undertaken on an informal basis without a contractual change. Employment contracts may need to be changed to state the home address as the contractual location. Other contractual considerations include mobility clauses, hours of work, pay, benefits and allowances.

Hybrid working is likely the way ahead but, as the points above show, it carries serious implications. Ciara advises employers to be careful to effect change appropriately and lawfully.

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Business law: a practical approach to getting a grip on your IP and data use

Over the last five years NI businesses have increasingly focussed on intellectual property (IP) and data protection. UK wide, almost half of business investment in 2018 (some £169 billion) was in IP rather than tangible assets. The same year introduced the EU's GDPR legislation, overhauling business data protection rules.

Rory Campbell, Partner, says “Both of these aspects of doing business are sometimes seen as ‘another headache’. However, there's a practical approach you can use to get a grip on your IP and data use, minimise the use of lawyers and create practical business benefit - the in/out audit.”

For IP, the first step is to identify what IP comes ‘in’ to your business. What IP do you use that belongs to other people:

your company name or logo, printed or digital content, trademarks, software code, patented technology? What permission do you have from the IP's owner? Sometimes the permission is generic, such as the terms of use of a Microsoft package. But say that you distribute a famous brand – you'll want to know that you have permission to use the brand's trademarks.

The second step is to ask what IP your business creates (in other words goes ‘out’). Who do you allow to use your IP: manufacturers, agents, distributors, customers? How do you control use of your IP by these people?

The in/out audit enables you to identify and check these two types of permissions. Do the IP permissions coming in allow you to use third party IP in the way that you want to? Do the IP permissions going out allow you



Rory Campbell



Ciara Fulton

to control the use of your IP – protecting your IP ownership, and collecting the payment you want?

The in/out audit is also a useful starting point for approaching your GDPR obligations. What comes ‘in’ through personal data that your business collects? How do you collect this, and how do you use it? And what goes ‘out’: what personal data do you give to other people, and why? What permission is given to you to use the personal data coming in, and what use permission do you give for data leaving your business? A

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final question – do you comply with the permissions given to you, and do you impose appropriate permissions on your data users?

Lawyers are useful in drafting documents which record the permissions you get to use other people's personal data and IP, and the permissions you give to other businesses. However, you'll find them a lot more useful (and less costly) if you've carried out an in/out audit yourself. You'll then get documents that correctly capture your business, rather than one-size-fits-all documents

which may not fit your IP profile or data use.

You're the person best placed to know your own business, so carrying out an in/out audit should be easier for you than for an external lawyer. If, however, you are unsure what does or doesn't count as IP, or what the rules and regulations are around use and storage of data, that's the time to talk to a lawyer to get some further clarity.

In short, the in/out audit is a useful way to look at your business from a new angle and minimise time spent with lawyers.