

Don't stand still: supporting the employee journey

Employment law partner James Townsend understands just how dynamic the employment environment is. In an evolving socio-economic climate, where attitudes, regulation and technologies shift at an alarming pace – and the impact reverberates throughout the workplace – he explains why nothing ever stands still.

It's a fact of life: for one reason or another, staff leave. The challenge is to ensure that whilst they're with you, they remain motivated and productive – and that when they exit, their departure is well managed and doesn't unsettle business continuity and profitability. From beginning to end, employees' tenures will be underpinned by policies and guidelines to support their development, but despite the legal smallprint, the whole process is a journey not a destination.

It begins with initial engagement around employment contracts, conditions and bonuses, but can subsequently veer into grievances, disciplinary and contractual disputes at a later stage. Journey's end can encompass aspects such as dismissal, tribunal claims, enforcing/defending injunctions and even post-termination restrictions.

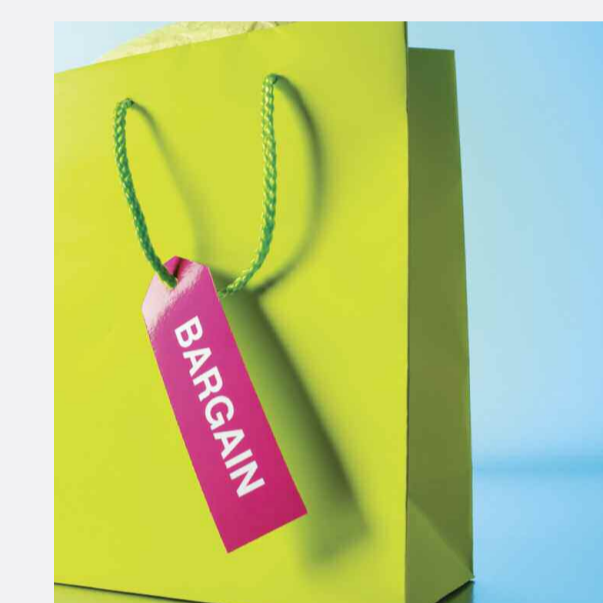
(continued on page 2)

Inside this edition



EMPLOYMENT LLP members

The ramifications of a Supreme Court decision are wide-ranging | page 2



CORPORATE Consumer rights

Are you compliant with new regulations when trading? | page 3



LITIGATION Rogue directors

Government under pressure to tackle problem and increase penalties | page 4



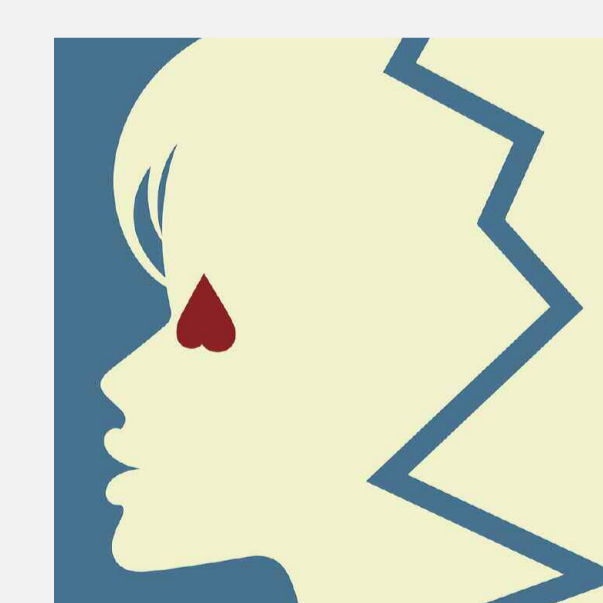
ENVIRONMENT Flooding

What lessons have businesses learnt six months on? | page 5



PRIVATE CLIENT Baby boom

Legal tips for when you welcome a new addition to the family | pages 6 and 7



FAMILY The blame game

Is it time for a no fault divorce? | page 8



REAL ESTATE Stamp duty headaches

An experienced conveyancer can ease the pain | page 9

Employees will undoubtedly come and go – but for employers, the journey is never-ending. In a dynamic environment, the challenge of balancing employee rights and protecting commercial interests is a daily event.

The job is never done.

By establishing an open relationship with a trusted legal partner, businesses can share their long-term goals and ongoing challenges – allowing the legal team to tailor advice and policies that align with identified business needs.

This process typically begins with the development of a wide-ranging Employment Handbook, which sets out all of the mandatory terms and conditions of a contract of employment, as well as individual company guidance around aspects such as smoking, company car or flexible working policies. Companies are, by law, required to publish policies around equal opportunities, whistleblowing, health and safety, grievance and disciplinary matters.

A robust Employment Handbook is designed to provide clarity for employees, and set out a transparent framework of a company's terms of engagement. It is, however, merely a foundation; it's not the end of the job, it is just the beginning.

The employee journey may include confidentiality breaches, IP protection, discrimination and mass redundancy. Succession planning can also lead to employee disputes. In recent times, there has been an increase in less common employment issues, many of which reflect cultural and technological evolution. A topical example is the issue of workplace immigration in the wake of the UK's tougher legislative stance on migrant labour.

Changes to legislation around discrimination present further challenges for employers. Now covered by the Equality Act 2010, discrimination law has been extended to include age, disability, gender, ethnic origin, religious beliefs and sexual orientation.

In an ever-changing business climate, the importance of sustaining a strong relationship with an employment lawyer cannot be over-estimated. The employee journey may contain common and familiar landmarks, but it also differs from individual to individual. It's only by engaging in an ongoing dialogue with a trusted advisor that companies can respond to – and indeed plan for – the everyday challenges in the workplace.

Employment issues often arise quickly and frequently – but a company's speed of response can make all the difference between a manageable issue and the escalation into more significant crises with far-reaching repercussions.

Employees will undoubtedly come and go – but for employers, the journey is never-ending. In a dynamic environment, the challenge of balancing employee rights and protecting commercial interests is a daily event. The job is never done.

The answer is to ensure that you never stand still – and to understand that there is always scope to adapt policies to reflect the changing marketplace. And by working in close partnership with a trusted legal advisor, you can make sure that the journey is safe, enjoyable and fruitful for both your business and its employees.

Whether reviewing your existing policies and procedures for compliance, ensuring your contracts are robust or advising on claims – we successfully handle all employment law issues, protecting you, your business and your people. To speak with a member of our employment law team call 01753 279029.

Don't ignore new rights for LLP members

Following a recent landmark decision of the Supreme Court, a member of a LLP is now to be treated as a "worker" for the purposes of employment law rights.

The ramifications of the decision in *Clyde & Co LLP and another v Bates van Winkelhof* are wide-ranging, affecting a host of professionals in partnerships, both large and small. LLP members, including equity members, are now protected against dismissal as a result of making a protected disclosure (or "blowing the whistle").

Beyond whistleblowing protection, workers are now entitled to a range of other statutory rights, including paid annual leave, limits on working time, national minimum wage and protection from unlawful deductions from wages.

More importantly, however, is that LLP members are now likely to be classed as "jobholders" under the Pensions Act 2008 for auto-enrolment purposes. So, if your firm has passed its staging date, it could face retrospective claims from members.

Employment law partner and member of the Association of Partnership Practitioners, Jo Davis warns that while most partnerships operate smoothly, from time-to-time issues arise that have to be addressed. The Supreme Court decision gives members the capacity to make it more of a minefield for LLPs to address those issues.

"Faced with such obstacles, many businesses choose to ignore the problem or, worse still, start to address it but abandon the attempt when things get sticky," say Jo. "My role is to ensure that all businesses are not hindered in their progression and have the tools to address staff issues, at all levels, when they arise."

If you are a LLP member and would like to discuss this decision, the question of compulsory retirement of partners or any other partnership or staffing issue, call Jo Davis on 01753 279029 or email jo.davis@bpcollins.co.uk

How will new regulations consume your business?

The new EU Consumer Rights Directive came into force in June, impacting many businesses. The Consumer Contracts Regulations 2013 implement a single set of rules for those who sell goods or services to consumers, including by way of distance selling and contracts formed away from the seller's business premises. All contracts made on-premises (a sale made at your business premises), off-premises (door to door, sales made at a trade show etc.) and via distance sales (telephone or online sales, including downloads) are caught.



Diane Yarrow, partner in the corporate and commercial practice, warns: "There are some exceptions, but it is safest to assume that if you deal with consumers, the new regulations are going to apply to your business and to find out more by contacting us."

Diane explains that depending on how you already operate your business, the impact of the regulations could be dealt with simply by making some administrative and practical changes to your processes and the ways in which you interact with customers.

For other businesses however, the regulations could have a huge effect on current communications to consumers – including unaddressed or addressed printed matter; letters, press advertising with order forms, catalogues, telephone with or without human intervention, email, fax, and television (teleshopping) – with the resulting cost implications being significant.

"There are a number of changes that could affect your business, but in short, these apply mainly to the information that a consumer must be provided with before entering into a contract and then to the rights that a consumer has to cancel," Diane explains.

Pre-contract information

The regulations list the information that a business has to provide to a consumer at the pre-contract stage. For many businesses this will be information that they already provide. For example, a consumer ordering online must be given details of your complaints handling policy.

There are however some new requirements and you should check the regulations or speak to us. Every applicable contract will be treated as including a term that you have complied with the provision of information. Therefore, a consumer could argue that failure to provide this information was a breach of contract.

Right to cancel

It is also important to note that not providing information about the right to cancel is a criminal offence. The "cooling off" period during which consumers can cancel a contract has now been increased to 14 calendar days - a significant change to the previous seven working days (for distance sales contracts) and seven calendar days (for doorstep sales contracts).

Some contracts are exempt from the cancellation rights including, urgent household repairs and bespoke and customised goods, but you should take care and check whether any of the exemptions cover the work that you are doing.

The regulations state that a business must not begin to supply services until the cancellation period expires. If a business does, and the consumer cancels the contract, then they will have no obligation to pay. This may be considered as counterintuitive in a world where consumers are looking for quick turnarounds, but Diane says there is a solution.

"A business can begin to supply services early if the consumer has made an express request in writing for them to do so. In this instance, if the consumer cancels during the 14-day period,

they will have to pay costs incurred up to the point of cancellation."

Some of the other changes include:

- Customers must be provided with a copy of the signed contract or with confirmation of the contract in writing.
- Unless agreed otherwise, goods should be delivered with undue delay and within 30 days.
- Goods remain at the risk of the trader until they are in the consumers' possession, or that of a person delegated to receive the goods (so you may want to reconsider leaving them on the doorstep!).
- Customers must be provided with a basic rate telephone number for post-contract queries.

"Not only can B P Collins help to guide you through the changes so that you understand the impact of these on your business, we can review your existing documentation to ensure compliance. We will also do the bit other lawyers miss out," concludes Diane.

"We will work with you to ensure your terms of business are properly incorporated in your contracts with consumers and can provide training to your sales and contract teams, giving you the confidence to carry out your normal day-to-day business without worry."

To arrange a review of your current consumer contracts call a member of our commercial law team on 01753 279022 or email commercial@bpcollins.co.uk

Greater scope for tackling “rogue directors” proposed

After seeing a dramatic decline in the number of successful cases brought against directors under the Company Director Disqualification Act 1986, associate Simon Carroll examines a new Government proposal, which aims to change legislation to not only increase possible penalties but also widen the criteria on which directors are scrutinised.



In 2001-2, 1,761 successful cases were brought against directors, yet just over half that number (961) were successful almost a decade later in 2012-13. The main reason for this decline is thought to be that the Insolvency Service is simply not pursuing as many cases.

Conduct which can lead to a case being brought against a director might include: failing to keep correct accounting records or submit tax returns; or more serious offences like misusing company assets and continuing to trade to the detriment of the creditors at a time when the company was trading insolvently.

If found guilty, under the current regime, courts can disqualify a person from being a director of a company for a period of up to 15 years. Furthermore, the individual would be forbidden from taking part in the promotion, formation or management of a company. Breaking these terms could lead to a prison sentence.

The Government is now thought to be under pressure to be seen to be tackling so-called “rogue directors”, which is partly why new proposals have arisen.

The actions of a “rogue director” can have dramatic consequences for businesses; from unnecessary redundancies, to large financial losses, to significant pay-outs under service contracts.

Under the current legislation, the Insolvency Service is restricted in the way it investigates cases of director unfitness and in the ensuing punishments, but the new proposals look to facilitate greater scope for the Service and other parties to bring cases to court.

The new measures include:

- Extending the time limit for bringing director disqualification claims.
- Allowing courts to take account of wider consideration when looking at whether directors are “unfit” (including previous actions overseas and with other companies).
- An ability to award compensation against a disqualified director, allowing the recovery of money to anyone who suffered from their actions.
- Allowing claims arising out of director misconduct to be assigned and brought by other interested parties, thereby widening the scope of those bringing claims.

Currently courts can only look at evidence that arises from the particular misconduct in one instance. Under the new proposals, should a director manage a number of companies or have a history overseas, they may find themselves coming under extra scrutiny because the courts take this information into account.

It is anticipated that the increasing scrutiny will have both direct, and indirect, financial implications both for company directors and businesses alike.

Directors could be subject to substantial personal fines, and would suffer from loss of income as well as reputational damage; the individual would not be permitted to act as a charity trustee, a school governor, a trustee of an occupational pension scheme or a member of a police authority without permission of the court.

However, organisations too need to consider the potential impact of these proposed changes. A notable element of the new proposals will be a likely increase in the amount of litigation and disputes arising from director misconduct.

Companies therefore need to ensure that they possess suitable insurance cover; that they carry out proper due diligence before appointing a new director, especially those with history overseas; and that contracts are updated in accordance with the proposed legislation.

Further, with the potential increase in cases there will be the risk of an increased output in legal fees, and so companies should check the extent of their director and officer insurance policies to ensure cover remains intact; certainly, this is something organisations should consider having a clear and well-communicated policy on.

Finally, businesses should consider succession planning early on in any investigation and will need to establish clear communications to company employees. All these matters may require considered legal advice from a trusted legal partner.

To speak to a member of the litigation practice, about directors duties or if you require advice on a director dispute, call 01753 279037 or email disputes@bpcollins.co.uk

Flooding: are you prepared for the great British weather?

It's hard to believe that six months have passed since the wettest winter on record, however it's not easy to forget the devastation that the flooding brought to residences and businesses throughout the South of England. The floods cost small businesses across the country a combined £831 million, according to the Federation of Small Businesses (FSB). Data released by the FSB found that small businesses in flood-hit areas lost on average £1,531 each, due to the impact of the floods.



Following a rigorous assessment of flood defences, the Environment Agency identified around 1,000 sites that were in need of repair following the floods. The £270m funding to fix those sites will bring some comfort to those businesses that suffered, however in order to prevent the same costly impact in the future, businesses must prepare for and take steps to mitigate the future risk of flooding.

The natural environment or great British weather can be difficult to contend with as it is so unpredictable. However, the recent floods have highlighted a need for businesses to consider the external risks that might affect them.

According to the FSB, around a third (32%) of small businesses in flood-hit areas have seen a reduction in demand for goods and services, while transport disruption has hindered the movement of goods and supplies for 29% of companies. Sixteen percent of firms reported staff absences due to flooding, which of course can have a considerable impact on productivity and lead to increased pressure on those who are able to get to work.

By taking the time to consider and identify the spectrum of potential issues or problems before an organisation is actually faced with one of them, enables businesses to assess the potential impact and put policies and systems in place to mitigate the risks posed as far as possible. This might mean that a business is able to minimise the identified risks – or even reduce the effects of them.

In light of the recent flooding, it's important to ask several questions. Consider what the impact might be if the road on which your

business property is based were closed or, worse still, entirely underwater. How would this impact on your insurance? How would it impact the operations of your business and, ultimately, profitability?

What would happen if your employees could not get into the office – does your business have flexible working policies in place for this kind of occurrence? Are you set up for remote working? How will your business ensure that clients are still being serviced?

If each of these points is not addressed, it could result in loss or reduction of earnings. Having policies in place which are the product of thinking about potential impacts and how to mitigate them can help alleviate the impact such an event might have on your business.

By understanding an organisation's environmental requirements and regularly reviewing operations, businesses can develop a robust yet flexible framework to minimise risk and improve resilience. Businesses that routinely assess and proactively identify the challenges they may encounter will undoubtedly be best placed to mitigate the risk of flooding.

Conduct a regular review and thorough testing of your business continuity plan to address emergencies that might disrupt operations. Ensure your Employment Handbook is maintained and that staff have read and understood the procedure if the office is inaccessible or they cannot get in.

In considering whether your business is at risk, it's important to remember that flooding is not just caused by rivers bursting their banks.

Flooding can result from rain water, river water, sea water and groundwater. The Environment Agency offers a Floodline which allows businesses to check whether they are located in a flood risk area and offers flood warnings for those in areas of high risk.

Owners of business premises should establish whether or not they can obtain compensation from the Government or their business insurers, as terms will become much tougher, if not impossible, to secure near high risk sites.

In addition to considering how to protect your existing business, those looking at taking new premises should also consider the risk of flooding. Look at where the property is situated, speak to those with local knowledge about the historic impact of flooding on the area and pay close attention to the results of the Environmental Search that your property lawyer should provide you with.

By working in partnership with our team of legal experts, and other professionals, an organisation can prepare and plan for the environmental challenges which could arise, including flooding, allowing organisations to continue in the comfort that there is a plan in place to deal with the unexpected.

To understand more about the potential flood risk to your business and how to prepare, contact a member of the environment team on 01753 279022 or email enquiries@bpcollins.co.uk

Legal lullaby ensures peace of mind for new parents

The summer months are the most popular time for babies to be born and, if someone in your family is expecting the patter of tiny feet, then prepare for life to change in a big way.

Of course, the early days will fly by in a routine of feeding, bathing and grabbing a few hours of much-needed sleep.

As the child grows up however, there are many financial and legal considerations to think about alongside the more day-to-day battles, such as persuading them to eat their vegetables or tearing them away from the latest social media trend.

According to an annual report from insurer LV=, the cost of raising a child and supporting them through university until the age of 21, is now over £227,000, which includes food and clothing, hobbies and education.

Writing in the introduction to the report, Mark Jones, LV='s head of protection, said: "Bringing up a family has never been more expensive and the costs are set to remain a pressure point for many families across the UK.

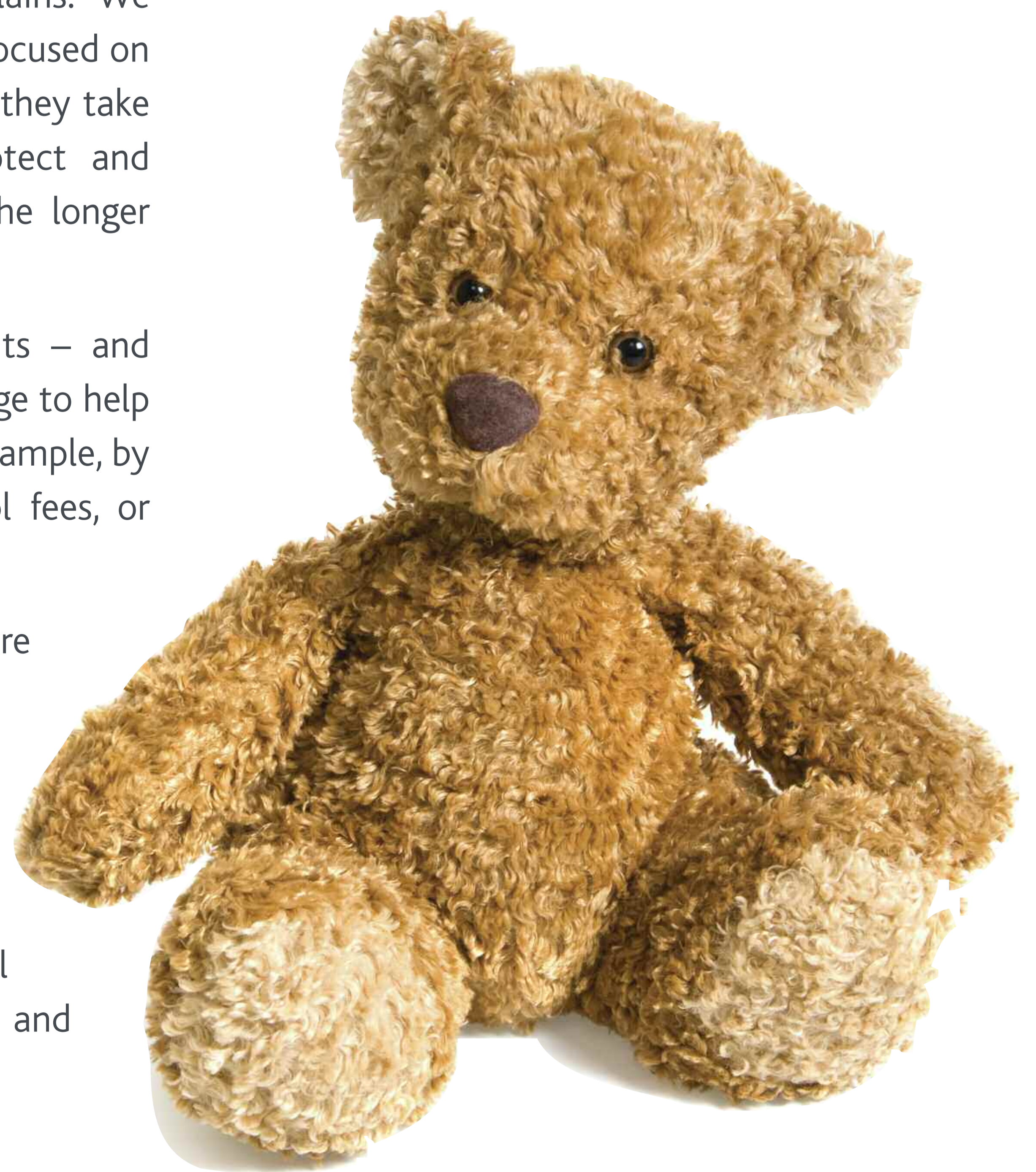
"Setting out the total cost of raising a child helps highlight to parents the need to secure their family's financial future should anything unexpected happen."

Planning ahead and preparing for both the expected and the unexpected is something that the private client practice at B P Collins believes is essential. The team has put together a simple guide for new parents to help them consider the legal implications they need to think about when a baby arrives.

Senior associate Christine Moore, explains: "We know any parent will be completely focused on their latest arrival, but it's important they take time out to consider how to protect and support their expanding family in the longer term.

"There are many things new parents – and grandparents – can do at an early stage to help secure a child's financial future, for example, by setting up a trust to pay for school fees, or dividing an estate in a particular way.

"It's also important that where there are already children from a previous relationship, careful consideration is given to looking after their best interests in the event of something happening to a parent. We hope this guide will act as a useful reference point for all new parents and wider families."





As a new parent, consider the following tips from our private client team:

- Make a will to ensure your children are adequately provided for in the event of your death. You may have additional children in the future, so ask your solicitor for the best way to include them in the will.
- Appoint guardians for any children under 18 so, if the worst happens, you know who will take responsibility for looking after them.
- If grandparents are keen to help, then talk to them about Inheritance Tax planning. Putting a trust in place now can help with future expenses such as school or university fees.
- Although children can demand their inheritance at 18, many parents take the view that they would prefer their children to be older and more responsible before managing a large sum of money. Trusts can be written into wills to ensure that any monies are only inherited at a later date, although they could potentially be accessed to pay for items such as university fees.
- Where there are children from different marriages or previous relationships, it's important to consider how to treat them fairly, especially if one child is likely to inherit from another source such as a grandparent. A solicitor can help you explore the best way to achieve this.
- This can also apply where an individual wishes his or her children to inherit capital from an estate rather than it passing outright to a spouse (particularly if it is a second marriage). Ensuring there are flexible trusts within a will can ensure assets are protected.
- When dividing an estate between children, the ability to include lifetime gifts can be a helpful way for parents to help their children out financially, for example, when they are buying their first home.

Call our private client team on 01753 279030 or email your enquiry to privateclient@bpcollins.co.uk

Flexibility for all employees

From 30 June, new Flexible Working Regulations, part of the Children and Families Bill 2014, came into force, giving all full-time and part-time employees the right to ask for flexible working.

The extended rights mean it is no longer just employees with parental responsibility for young children or carers that are eligible to request flexible working.

Under the new rules, you can apply as long as you have 26 weeks' continuous service with the employer and have not made a previous request within the last 12 months.

However, it's important to note that eligible employees do not automatically have the right to work flexibly, but rather a right to submit a request to their employer for flexible working. The statutory procedure for dealing with flexible working requests is also repealed.

Under the new regulations, employers will have a duty to consider all requests in a reasonable manner, although they will still be able to turn them down on business grounds.

If an employee has been dismissed for making a request for flexible working, no qualifying period is required for claiming unfair dismissal. If a request for flexible working is refused, the employee must make any claims to an Employment Tribunal within three months of the 'relevant date'.

Employment law partner, Jo Davis adds: "An employer is there to run a business and make a profit, so employees need to be reasonable and flexible in what they ask for. They should think about how the business could work around the request and, if possible, come up with solutions which would make it far harder for the employer to say no."

For example, she says, if you want to reduce a five day week to a four day week, it might be quite difficult for an employer to take someone on for only one day. Suggesting you work a three day week and allowing the employer to recruit for someone to fill the other two days, may be a more reasonable alternative.

And she makes the point that flexible working can take many shapes, including flexitime, home working, job sharing or even shift or contract working.

Avoiding the blame game – is it time for no-fault divorce?

Sir James Munby, the President of the Family Division, recently called for the introduction of no-fault divorces, saying it would bring some "intellectual honesty" to the system. He has gone so far as to suggest that where couples agree that their marriage or civil partnership has broken down, the matter could be dealt with by a registrar as a purely administrative matter, rather than being subject to the scrutiny of a judge.



B P Collins' family team agrees that in many cases apportioning blame can fuel conflict, which is particularly detrimental where there are children involved. It seems sensible to bring the law up-to-date with much of the rest of Europe and other Commonwealth countries, such as Australia, which have had no-fault divorce systems in place for many years.

Although at present, we claim to have a system of no-fault divorce, in each case a judge has to certify that the marriage or civil partnership has irretrievably broken down as a result of one of five facts; adultery (which does not apply to civil partnerships), unreasonable behaviour, desertion, separation for two years with both parties' consent to the decree, and separation for five years.

What this means in practice is that if a party to a marriage or civil partnership wants a divorce or dissolution straight away, they will need to base their divorce on the other party's adultery or behaviour and so "blame" that person for the breakdown of the relationship.

In the case of behaviour it is necessary to provide examples of what the petitioner considers to be the other party's unreasonable behaviour. Although it has become the practice to make the examples as non-contentious as possible, the suggestion that one party is solely to blame can prove a stumbling block or cause unnecessary distress, when in reality there are often many reasons for the breakdown of a relationship.

In the vast majority of cases, both parties agree the relationship has broken down but do not wish to wait two years to proceed with a divorce and so accept a behaviour petition as a means to an end.

Fran Hipperson, senior associate says: "It is understandable that where one party feels they are not to blame for the breakdown of the marriage, an unreasonable behaviour petition can be cathartic, allowing them to air their grievances. However, in the majority of cases the current system forces couples to apportion blame which only serves to make an already difficult situation worse."

"In the majority of cases the current system forces couples to apportion blame which only serves to make an already difficult situation worse."

Fran Hipperson

Claire Filer, an associate solicitor agrees, adding: "Enabling parties to begin the process of divorce or dissolution by stating that the relationship has irretrievably broken down and not having to blame the other or wait until they have been separated for two years, or in some cases, five years, will reflect the reality of relationship breakdown, which is that often there are many reasons for it, or that a couple has simply drifted apart."

Although critics say this will make the process of divorcing too easy, Fran and Claire disagree

as it is likely that under any new changes, it would still be necessary to have a period of separation before a decree of divorce or dissolution can be granted.

In Australia, for the court to be satisfied that the relationship has irretrievably broken down the parties need to have been separated for one year.

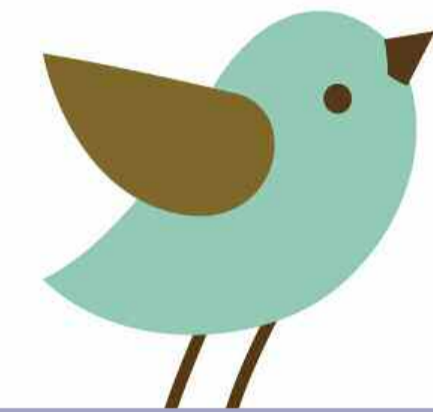
Fran continues: "Any new law would need to make sure that the parties did not have to wait to resolve financial matters between them (particularly since urgent applications sometimes have to be made). It is also vital that there is provision to prevent the divorce or dissolution from being finalised if there is a good financial reason for doing so, for example, to prevent one party from rushing an application through in order to gain a financial advantage and also to ensure that pension rights are protected until a financial resolution."

And, they say, in addition to the emotional advantages of having a no-fault divorce, in a court system which is currently overburdened, it makes sense to free up judicial time by simplifying the divorce or dissolution procedure and making the process of obtaining a decree, (particularly where there are no objections) administrative rather than judicial.

To speak in confidence with a member of our matrimonial team, call 01753 279091 or email your enquiry to familylaw@bpcollins.co.uk

Reassurance for buyers as housing market booms

As the housing market accelerates once again, our property team underlines the importance of working with solicitors who have your best interests at heart and will ensure the process goes as smoothly as possible.



It follows a warning about a rise in the number of complaints involving residential conveyancing, including a number of cases where solicitors have failed to pay stamp duty on behalf of their clients who have purchased a new home.

Writing in The Law Society Gazette, Adam Sampson, chief legal ombudsman, said: "One in five legal complaints now made to our scheme is about residential conveyancing, making it the most-complained-about area of law."

Of particular concern, he says, is the "harrowing experiences" of people who are chased by HMRC for not paying their stamp duty, while in fact they had already given the money to their lawyer in good faith.

The article highlighted two cases where individuals had received large demands for stamp duty fees plus interest, one of which went back 10 years and, on investigation, the home owner also found the property had never been registered with the Land Registry.



Tracy Jones is an associate who specialises in residential conveyancing. She says anyone buying a house needs to choose a solicitor carefully and make sure each stage of the process is completed.

"Ultimately the onus is on the buyer to make sure stamp duty is paid," she said. "Unfortunately, in these cases the clients had been told the payment had been made when in fact it hadn't and clearly their solicitor had failed them."

"When stamp duty is chargeable then it is usually payable within 30 days of completion and a property that has been purchased for value can't actually be registered with the Land Registry until that has been done. As a new owner, the buyer should expect to receive deeds and documents for the property within a month or so of the completion date unless the property was previously unregistered."

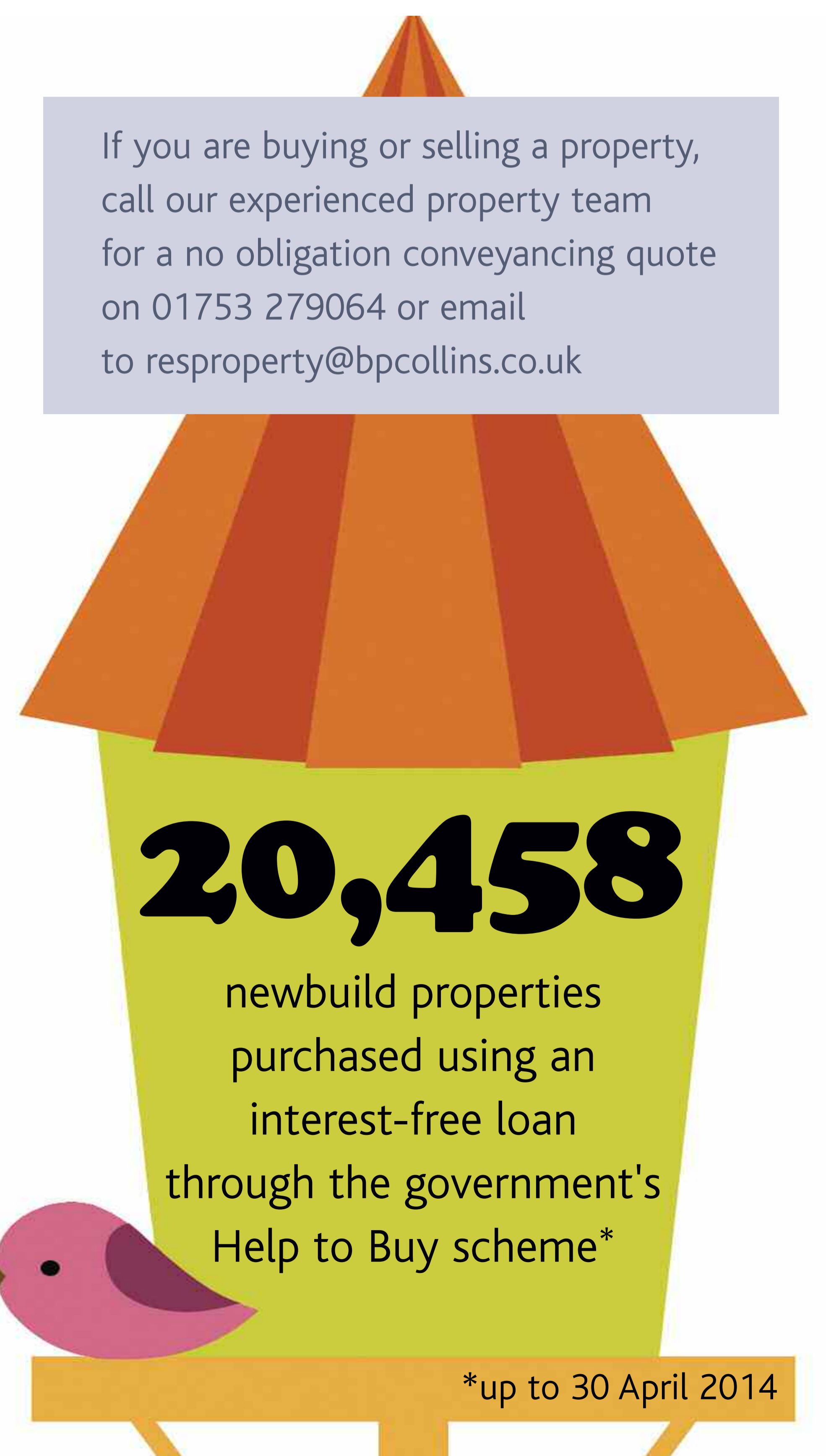
"If for any reason you don't receive those documents, it should act as a trigger that

something isn't right and you need to contact your solicitor to find out what is going on."

"We all know moving home is an extremely challenging time and the last thing anyone needs is any additional stress. It makes sense to choose a practice which has the specialist conveyancing skills and experience to help make your purchase as easy as possible."

Every year, the residential conveyancing team at B P Collins handles more than 600 property transactions. The firm is a member of the Law Society's Conveyancing Quality Scheme (CQS) – widely recognised as a mark of excellence in the home buying process.

If you are buying or selling a property, call our experienced property team for a no obligation conveyancing quote on 01753 279064 or email to resproperty@bpcollins.co.uk



B P Collins LLP advised
Mitchellson Formwork & Civil
Engineering Limited



MITCHELLSON

in relation to the negotiation
of an exit of one of its shareholders
from the business

B P Collins LLP advised
the shareholders of
The Open Road Consultancy

in relation to the sale
of the company to
Blue Rubicon (Holdings)

The root of the problem for warring neighbours

We're all familiar with stories of neighbours going to war over the infamous quick-growing Leylandii trees, but deep underground there's often a more sinister threat. The damage that tree roots can do to neighbouring properties can result in a hefty bill, as one North London woman found out recently.



She was ordered to pay a hefty £17,000 in damages to her neighbours after the spreading roots of her "dominating" cypress hedge caused damage to the foundations of their home.

The case was a reminder that homeowners have a responsibility to ensure that they do not damage their neighbours' properties, and this includes a legal duty to keep their garden trees and shrubs under control.

The couple who lived next door to the woman had brought a claim for damages after they discovered cracks in the exterior and interior walls of their property. The Technology and Construction Court found expert evidence had established the cypress trees were a significant cause of the subsidence damage and that a "reasonably prudent landowner" would have appreciated the real risk posed by the roots.

Given the "dominating position" of the hedge – described as "not an attractive feature" – the damage to the couple's home was "reasonably foreseeable". Finding the woman liable in nuisance, the Court found that it would only have cost between £700 and £800 to remove the hedge and that the woman had failed to take appropriate steps to eliminate the obvious risk.

However, the Court went on to rule that damage caused by a 50-year-old oak tree on the woman's land had not been reasonably foreseeable, and lopped 15 per cent off the couple's compensation to reflect their contributory negligence in failing to complain to their neighbour earlier.

The Court awarded the couple damages for the cost of expert advice, surveys and remedial

work, and for the distress and inconvenience caused by the tree roots damage. The total award came to £17,269, after the 15 per cent reduction.

Property litigation lawyer Sarah McLoughlin, said: "This case is a timely reminder that while we all may love our gardens, we do have to be mindful of the need to ensure our neighbours' property isn't damaged by our failure to take control of our trees and shrubs. A weeping willow or a silver birch may look lovely, but it could prove to be very expensive if not properly maintained and managed."

If you are concerned about possible damage to your property owing to a neighbour's plants or activities, call us on 01753 279035 or visit www.bpcollins.co.uk



Springing into action

Champagne and canapés set the tone as more than 80 guests enjoyed a range of lifestyle and beauty tips from an array of experts at B P Collins' first Spring into Action event. The Suite was transformed for the evening to host style directors from luxury salon TOPA Hair Design, beauty and image consultants, alongside master perfumers offering guests the chance to create their own signature scent.

Highlights included a talk by one of TV's best known vintage clothing and antique collectables specialists Tracy Martin, health tips from the team at Stoke Park, and a chance to try on the legendary Algerian Love Knot necklace, by UK Jewellery Designer of the Year 2013 Sophie Harley – as featured in the James Bond movies Casino Royale and Quantum of Solace.

"It was a brilliant time, I had so much fun. What a fantastic mix of different but co-ordinated people demonstrating everything from jewellery to fragrance!"

Guest Mimi Harker OBE

British sprinting legend highlights importance of supporting our young Bucks athletes

Former British sprinter and two-time Olympian Derek Redmond, presented two up-and-coming young sports stars with a £750 grant each from the Bucks SportsAid Foundation at the recent Bucks Sporting Lunch Club.

Derek, who was world 4 x 400m relay champion in 1991 and was famously carried across the finishing line by his father at the 1992 Barcelona Olympics after a devastating hamstring injury, kept the audience entertained with stories of life on the athletics circuit.

Now a respected coach, advisor and commentator, he was the past recipient of a SportsAid grant, and spoke about the importance of supporting young athletes and what a difference the grant had made to him.

Sixteen-year-old rower Rufus Biggs from Marlow, and netball player Tash Pavelin from Holmer Green, were delighted to receive their cheques at the special event at Dorney Lake, co-sponsored by B P Collins and attended by over 100 members of the business community.

Rufus' ambition is to compete next year in the World Junior Rowing Championships in Rio, and hopefully the Olympics in 2020 or 2024; while Tash wants to represent England at the Commonwealth Games, and she is targeting 2018 in Queensland, Australia, as her earliest opportunity.

Bucks Sporting Lunch Club events are supported by local businesses as part of a fundraising programme to help young sports stars of the future with training, equipment and travelling expenses and, thanks to generous donations, the event raised £4,000 for SportsAid to help fund future grants.

The sporting lunch is also supported by Buckinghamshire New University; Austyn James Wealth Management; Television Systems Limited, Harwood Hutton and Evolution Live.



The next Bucks Sporting Lunch Club is on Friday 24 October, with English cricketing celebrity Geoff Miller OBE.

To book your ticket or to find out more about the Lunch Club, visit www.buckssportinglunchclub.co.uk



B P Collins sprints away with triple Fun Run success

Sporting staff from B P Collins proved a runaway success when it took top honours in the recent Gerrards Cross Fun Run for the third time in a row. The 17-strong team showed a clean pair of trainers to the opposition on the 5km course, with around 1,500 runners taking part.

The biennial event, for which the law firm is a Gold Sponsor, once again attracted a fantastic turnout from the local community with money raised being split between Kids in Sport and Home-Start (Slough). It has grown to become the village's biggest community fundraising event, and, over the years, more than £215,000 has been raised for a variety of good causes.

As well as fielding a team of runners, B P Collins also had a hard-working group of volunteers organising an inflatable slide for children, which was so successful it even attracted a queue, and many more employees came along to provide moral support on the day.

Senior partner Chris Hardy, said: "It was an excellent day. We are proud to support such a fantastic event and we were very happy to be at the heart of the activities. Well done to our fantastic runners who upheld our honour and our reputation as the fastest business in Gerrards Cross!"

Lawyers climb their way to success for Age UK Bucks

Battling their way through torrential rain and mist, walking in snow and coping with temperatures of minus zero degrees, an eight-strong team from B P Collins raised an astonishing £2,500 for Age UK Bucks by successfully tackling the Three Peaks Challenge.

After a final push, almost all the team completed the challenge and a delighted (but exhausted) Simon Carroll, an associate in the litigation and dispute resolution team, said: "It was a huge success, with everyone pulling together to get over the line."

"We're thrilled to have raised so much money. Age UK Bucks offers a really useful range of services that many of our clients benefit from and, because some of our lawyers work specifically within the elderly client sector, we have first-hand experiences of its work, which is why we wanted to do something to contribute to such a good cause."

The Three Peaks Challenge sees teams scaling Ben Nevis in Scotland, the highest of the peaks at 1,344 metres, Scafell Pike in England's Lake District at 978 metres, and Snowdon in Wales, at 1,085 metres – all within 24 hours.

Leading the B P Collins group was keen walking enthusiast Paul Lowery, partner and leader of

the private client practice, together with Nick Hallchurch, partner in the litigation and dispute resolution team; associates Simon Carroll and Simon Hall; property associate Matthew Crockford; Dan Johnson, financial controller; and trainee solicitors Rebecca Mitchell and Tom Bird.

From the funny bits – such as Simon Hall's jubilation at good timekeeping being tempered by the fact that the soles came off both his walking boots, to the best bits – sunrise breaking over Lake Wasdale and their first hot meal on return, Simon Carroll says they encountered plenty of highs and lows during their epic journey.

Age UK Buckinghamshire is an independent local charity which offers a range of services to help older people living in Bucks maintain their independence, dignity and wellbeing.

Visit www.ageuk.org.uk/buckinghamshire

"We would like to thank the whole B P Collins Challenge team for their amazing achievement. With recent and ongoing cuts in grants and funding, it's becoming more difficult to maintain the assistance we offer to help older people locally. The money raised will go towards helping us continue to offer these vital services."

Giulia Johnson
Chief Executive
Age UK Buckinghamshire



B P Collins LLP | Insight Issue 23 | July 2014

Write to us at B P Collins LLP, Collins House, 32-38 Station Road, Gerrards Cross Buckinghamshire SL9 8EL Tel: 01753 889995 Email: enquiries@bpcollins.co.uk
Practice group leaders: Commercial property, Michael Larcombe | Corporate and commercial, Simon Deans | Employment, Jo Davis | Environment, Diane Yarrow
Family, Sue Andrews | Litigation and dispute resolution, Matthew Brandis | Notary public, David Wilkinson and Martin Silverman | Wills, trusts and probate, Paul Lowery
Property litigation, Sarah McLoughlin | Residential property, Chris Hardy

This document is for information only and is believed to be correct at the date of publication. Articles have been reduced where necessary and are of a general nature, therefore should not be relied on as a substitute for specific legal advice. Client names have been published only where they are in the public domain.

No action should be taken without speaking to your legal adviser. © 2014 B P Collins LLP



www.bpcollins.co.uk

for daily legal news, commentary, blogs and events