

# insight

The latest legal news and views from B P Collins LLP | Issue No. 29 December 2016

## A vision for success

This year B P Collins LLP has been celebrating its 50th anniversary with a series of events and activities under its Made to Last banner. Founder Brian Collins has also been sharing his story of how he took a one-man practice and transformed it into the successful business it is today.

In the final part of his discussion with senior partner Chris Hardy, we hear about the firm's move to its present day home in Gerrards Cross and hear why the quality of service and the ability to communicate is as important today as it's ever been.

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*Made to Last*  
Celebrating 50 years

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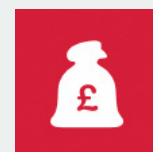
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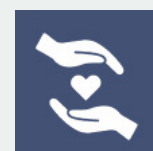
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We pick up as Brian talks about the change from a network of offices into one central operation.

**Chris:** The firm was restructured in the late 1980s/early 1990s, what was the thinking behind that?

**Brian:** It was partly the onset of new technology and the changes that was bringing, but it was also about perception.

By then, we were probably one of the biggest firms in the area, but because we had lots of little branches, all people saw was a small office above a shop or adjoining an industrial estate. That made it difficult to attract larger commercial clients as they thought we didn't have the size of organisation to handle their work.

Moving to Station Road, in Gerrards Cross, gave us the opportunity to present ourselves to our clients in a much better way, it gave us more credibility and persuaded people that we could cope with a certain type of work.

I would like to pay tribute to Ian Johnson, who masterminded the restructuring and the move into Station Road. He also took over from me as senior partner when I retired in 1999.

As to technology, that also made it easier. I remember when Edwin and I were persuaded to buy the latest piece of new technology many years ago - an IBM Golfball typewriter - we thought we were being very brave!

**Chris:** How much hands-on lawyer work were you doing by then?

**Brian:** Plenty, I prided myself on being one of the top fee earners all the way through.

**Chris:** Over time, the nature of the firm was changing. At one time there was a "typical" B P Collins partner but this started to change as different specialisms brought different personalities. Was it difficult to keep that collegiality?

**Brian:** During our major expansion our main income was still from conveyancing and property development, partners had to put some of their profits back into the firm because I had this vision of needing to expand and bring in new specialists. It was a question of finding the right balance between immediate income needs and long term investment.

**Chris:** I think a lot of credit should go to you for encouraging new lawyers to join the firm. I was only 29 when I joined and it would have been easy for you and the other partners to take a selfish attitude and not offer equity to younger people like me, who they were bringing in. Instead, you were all far sighted enough to recognise the need to expand and encourage talented people to come in as partners.

A lot of work is counter-cyclical. In recessionary times, non-transactional work such as litigation thrives, but now the economic climate is more buoyant compared to 2008, there's a definite increase in work such as property and mergers and acquisitions.

It's always important to take a

long term view, was that a major challenge for you growing the business?

**Brian:** It's important to recognise the contribution that all the firm's practices make. A commercial department may have a fantastic deal one month but this can be followed by a quiet time, whereas things such as conveyancing, probate and will work is always there and I think having a good spread of services enabled us to handle the recessionary times much better than some.

**Chris:** Let's move on to talk about how the legal landscape has changed in the past 50 years.

People's perception of the law has altered a great deal. When you started, Brian, there was a mystique about it as a profession and people didn't question you. But now when people get in touch they are already equipped with a great deal of knowledge, but not necessarily the context in which it is relevant.

So I believe that it is the quality of our service, providing added value beyond an exemplary knowledge of the law and the ability to communicate that are the three things which



make B P Collins stand out from the crowd.

Another thing that's changed is the amount of compliance and regulation that we have to take into account. A firm our size can employ support staff with the right expertise to manage this but smaller firms find it less easy - it would be hard now to start a law firm in the same way that you did then.

What else do you think has been a major change?

**Brian:** It has to be the number of females joining the profession. In 1977 just 4% of lawyers were female but now it's over 50%.

**Chris:** Definitely. Now over 65% of B P Collins staff are female.

**Brian:** Employers are now also much more flexible in areas such as job share and part-time work. It's been a dramatic change.

**Chris:** Yes, I think being able to offer flexible working has enabled us to take on really high quality people who have families and want to work closer to home.

Where do you see the firm going next?

**Brian:** You have to look at what the clients want and provide them with the service they need. That's what will dictate future direction. Whatever happens though, as a well-established and well-respected firm we should be in a good position to react to whatever changes come about.

**Chris:** I think it is a tribute to you, Brian, and those who worked with you that B P Collins was always able to react to changes and thrived in spite of the different challenges of the marketplace.

How would you sum up your success?

**Brian:** I am extremely proud of what's been achieved. When I started out I certainly didn't think in terms of a 50 year vision. So many people have contributed to our success in so many ways, and even those who didn't always agree with me have remained friends. We have always had an enormous amount of loyalty and it is a tribute to both the partners and our support staff that we have done so well - it truly has been a joint effort.

**Chris:** You retired on your 60th birthday in April 1999; how do you fill your time these days?

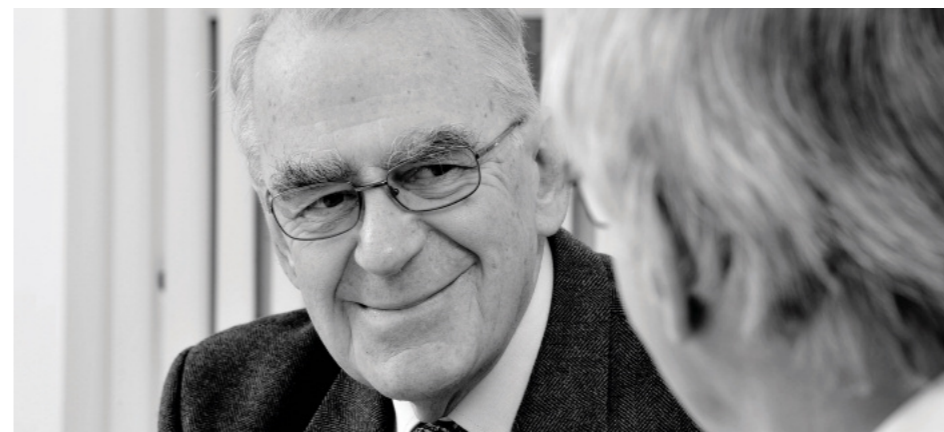
**Brian:** I like to keep active. I play golf once a week and go to art classes. I manage a couple of the firm's previous offices. We have a large garden to look after and my wife and I have a pretty active social life.

I am lucky that I enjoy good health and I am really enjoying my retirement years.

**Chris:** Brian, thank you for your time and your insight into the B P Collins story. It has been a privilege to talk to you and even more to have worked alongside you. May you continue to enjoy your retirement and thank you for sharing our celebrations.

**"I am extremely proud of what's been achieved."**

**Brian Collins**



**"I would like to pay tribute to Ian Johnson, who masterminded the move to Station Road, and took over as senior partner in 1999."**

*Ian Johnson (far left) and pictured with Brian Collins at the firm's 40th celebrations*

## Winning over a Dragon

B P Collins' client Snaffling Pig Co. demonstrated their own vision for success in proving pigs really do fly when they secured funding from Dragons' Den investor Nick Jenkins.



Snaffling Pig Co., a business which started with a bet and £500, upheld their mantra of taking pork crackling to places it's never been before by coming face-to-face with the Dragons in hit BBC TV show Dragons' Den.

Taking on the line-up of multi-millionaire investors, founders Andrew Allen and Nick Coleman successfully pitched their growing pork crackling business, securing funding from one of the Dragons.

After Snaffling Pig hired Simon Deans from B P Collins' corporate and commercial practice, a contract is now in place with Nick Jenkins, which secures Dragons' Den funding to grow the company.

Nick Coleman added:

"We first met Simon when he presented us with the New Business of the Year prize at the Bucks Business Awards and liked what we heard about the B P Collins approach to helping its clients.

"The advice we received was very pragmatic, on time and on budget and we look forward to working with the B P Collins team in future to build a long-term relationship."

# From start-ups to succession planning: business tips and advice

In the third article in our Things To Do Before You're 50 series, our corporate and commercial team and employment team focus on the business world. Whether you're a start-up or a runaway success, it's important to make sure you have all the legal issues in order at every stage.

Corporate and commercial partners Simon Deans and Vicky Holland provide tips and advice; while employment practice group leader and partner Jo Davis adds some words of wisdom.

## Securing funding

Depending on your business plan, securing funding for a start-up may be a necessary first step. A partnership with a good law firm can help you through those early stages, ensuring you engage successfully with future financial backers and shareholders and have all the necessary agreements in place.

## Rule number one

Staying on top of all the latest rules and regulations is essential. That's everything from employment, health and safety, and discrimination law, to supply chain relationships, property leases and commercial contracts – to name just a few.

## IP protection

If you have spotted a gap in the market and have a great idea, then don't run the risk of losing your commercial advantage.

Make sure IP ownership is set out in employees' contracts, asking clients and potential investors to sign Non-Disclosure Agreements, and ensuring all contractors have contracts confirming transfer of ownership to the business.

## Security counts

While it is more cost and space efficient to use cloud based storage than having your own servers, there can be risks, especially with security, so speak to the experts before signing on the dotted line.

## Going into business with family and friends

While there are many plus points to setting up a business with family and friends, it can also be difficult to keep matters on a business-like keel, especially when it comes to issues such as income versus investment and the amount of time the company needs.

"Before you start working together, it's important to set some ground rules," says Vicky.

"Make sure you are prepared to have frank discussions and be honest about your plans, such as your exit timetable or what happens if the investment isn't successful. Equally there may be other factors, such as a falling out or a divorce, so you need to think very carefully."

## Employee trust

Everyone likes to think they can trust their employees, but the number of Employment Tribunals is testament to the things that can go wrong. Jo says: "An employment lawyer can advise on how to add an effective restrictive covenant into their contract to make sure that doesn't happen and also advise on other issues, such as discrimination, equality and, of course, employment contracts themselves."

## Merging matters

From mergers and acquisitions to joint venture arrangements, it's likely that at some stage of the business lifecycle there will be an opportunity to pool assets and exploit new markets. While this can herald a great new beginning, if the cracks begin to show then having an expert on hand to manage (and hopefully resolve) any dispute is essential.

## Policy matters

Organisations should also have policies in place to aid employees' understanding of the various rules. For example, since new Shared Parental Leave (SPL) was introduced in April 2015, companies have been encouraged to have their own SPL policy, setting out the necessary timeframes and notification requirements, and employees are expected to adhere to it too.

## Trusted relationships

"Partnering with a lawyer you trust who understands your business and will be with you every step of the way can be an invaluable support; someone who will help you consider the challenges, minimise the risks and share the successes," concluded Simon. "Surely that has to be the best business decision you'll ever make."

Read the extended article on the B P Collins website: [www.bpcollins.co.uk](http://www.bpcollins.co.uk). To speak with a member of the corporate team, call 01753 279022 or email [commercial@bpcollins.co.uk](mailto:commercial@bpcollins.co.uk)

# Shape your site into a sellable proposition

This summer the House of Lords published a report saying the Government must build 300,000 homes each year in England to help solve the housing crisis, which is an increase of 50 per cent from its current target. So what do landowners need to do to make sure their land is 'fit for purpose'?

Although more publicly owned land needs to be released and members of the House of Lords have accused some private developers of hoarding their land, private landowners are an integral part of the solution to the housing crisis. Edward Monniot, associate in the commercial and residential property practices, gives advice to landowners on what needs to be done to make their land legally 'fit for purpose'.

## Does your site tick all the boxes?

Your land may be affected by private or public matters which could affect its development potential. These restrictions can be ascertained by reviewing documents from a number of different sources such as the Land Registry and searches and enquiries of your local authority and statutory undertakers.

It can be overwhelming and confusing, so it's easy to miss the small print. A lawyer can spot what developers will need to know from the outset. For example if a developer is interested in your land, there are factors upon which they will want clarification immediately, such as whether your property has the necessary rights of access, whether there are any enforceable restrictive covenants which would be breached by the development and whether there are any public or private utilities running through the property which would need to be diverted to facilitate development.

Your lawyer can also advise whether or not the property is within the green belt or is subject to an agricultural tie making it more difficult to obtain planning permission for development.

## Think like a developer

Your lawyer can also provide solutions as to how difficulties can be overcome in order to make your land a more attractive proposition to developers.

For example, if there is a restrictive covenant registered against your property, your lawyer can ascertain whether it remains enforceable. If it is, then your lawyer can assist you with negotiating any necessary release from the party benefiting from the covenant or (if appropriate) with obtaining appropriate title insurance to cover the risk of developing in breach of covenant.

It is also vital to consider whether your property has the necessary rights of access to the public highway to serve the proposed development.

If your land is accessed by way of a private roadway, the right of way over this private roadway may be expressly limited to the existing use of the land. If this is the case, your lawyer will be able to assist you with negotiating any necessary "enlargement" of the right of way with the owner of the private roadway or, where the ownership of the roadway is not known, obtaining appropriate title insurance to cover the risk that the right of way might be challenged.

## Planning permission

Seeking planning permission before putting your site on the market can be a time consuming process, with lots of paperwork and

mind boggling terminology to digest. You may wish to employ a planning consultant and try to obtain planning permission yourself but if this sounds too cumbersome and costly, an option agreement or conditional contract with a developer is also a possibility.

Under such arrangements, a landowner can agree that if a developer secures planning permission within a certain timeframe, they will sell for an agreed price.

This can be particularly appealing when your land is currently within the greenbelt as the developer will have the necessary expertise and resources to promote your land for development.

## Seeking legitimate commercial advice alongside your lawyer

A suitably qualified and experienced agent will be able to ensure you get a fair valuation for your land.

Once the deal is structured, your lawyer will work alongside your agent to document the arrangement to ensure you are protected as much as possible.

To speak with Edward or a member of the commercial property team about your development, call 01753 279087 or email [comproperty@bpcollins.co.uk](mailto:comproperty@bpcollins.co.uk)

# Planning for permission: securing approval for your dream home

Many homeowners are choosing the more economical route of renovating and extending their own home to give them the extra living space they crave. But there are two significant criteria that people need to consider before embarking on such a project – planning permission and building regulations.

As house prices are averaging £363,481 in the South East, with detached properties in excess of £600,000, senior associate Mike Wragg looks at what you need to consider before deciding to renovate or extend your home.

## Planning permission

It's a requirement that fills some people with dread, especially as it can be a slow and laborious process. You may be tempted to listen to your builder who might maintain that permission is not required for the larger kitchen you want or the transformation of your garage into another bedroom. And it's possible that during the building works, there are no objections from neighbours and the council's planning officers don't pay you a visit.

You may think you've got away with it; until you come to sell your house and if the council did not approve your plans in the first place there could be a huge problem.

In theory, the thousands you spent on extra square footage should bump up your house price, but without planning permission it could mean that all the investment and inconvenience you went through was for nothing. Moreover – as it spells out very clearly on the government's website – you could be served an 'enforcement notice' ordering you to undo all the changes you have made.

Regardless of what your builder says, always seek advice from a property lawyer or your local council on whether permission is required, you can proceed under permitted development or any other considerations before making any structural changes to your home.

For example, it was recently announced that London homeowners planning to create underground extensions will have to pay Britain's first extension tax with an average fee of £8,000 to secure planning permission. The money being raised will help to pay for officials who will monitor whether construction work is in accordance with noise restrictions, the hours when building work will take place and monitor the number of truck deliveries to complete the build.

Basically if boundaries are impacted, views are impaired or there will be a huge amount of inconvenience for your neighbours, you will need approval before forging ahead with renovations.

**“Once you've decided to extend your home it's tempting to get things done as quickly as possible. But it's vital that solid foundations are put in place both legally and physically, otherwise your new build could come crashing down around you.”**

Mike Wragg

## Building Regulations

Even if you do not need planning permission for your extension, because you are using permitted development rights, you must get building regulation approval and hiring a reputable builder will be integral to achieving that. They can be difficult to find as they don't have to be independently certified like a gas engineer or electrician. Listen to who your friends or family recommend – word of mouth is invaluable.

Apart from new buildings such as garden sheds and some conservatories, all new building work, including alterations, must comply with the Building Regulations. This covers home extensions including loft conversions, internal structural alterations, installation of baths, showers and toilets which involve new drainage or waste plumbing, installation of new heating appliances, new chimneys or flues or altered openings for new windows.

A trustworthy builder will ensure that all public health, health and safety and structural requirements are addressed such as whether the foundations are the correct depth, the walls are properly insulated, the extension is damp proof or there is proper ventilation. A building inspector will then check the building works both during and after completion, before signing it off.

To speak with Mike or a member of the residential property team about home renovations, call 01753 279021 or email [resproperty@bpcollins.co.uk](mailto:resproperty@bpcollins.co.uk)

# B P Collins' "unique" support for Epilepsy Society

Epilepsy Society is a long-standing client of B P Collins LLP, with a relationship dating back almost 20 years. During that time, the firm has provided professional advice and expertise on a range of legal issues and has supported the charity through a series of fundraising activities.



Epilepsy Society's philanthropy manager Jo Wengler says the two organisations have a "fairly unique" partnership, one which she especially values because of the ongoing challenges of attracting support from the corporate sector.

"While organisations are often keen to give us volunteer time, which we greatly appreciate, we also need financial support and, by sponsoring many of our activities, B P Collins has helped us fund cutting edge research and awareness campaigns," said Jo.

The pioneering work of the charity is made clear when Jo explains how its experts are currently researching structural images of the brain, studying the genetic architecture of epilepsy and undertaking family DNA testing, which one day could help to determine the genetic mutations that cause epilepsy.

"This is quite phenomenal research and, while we don't currently have the answers in terms of treatment, it does mean that for parents who have children with complex epilepsy, they will be able to understand why their child's epilepsy has arisen and know there is nothing they did to cause it," continued Jo.

"We were the first to introduce MRI scanning in the mid-90s for people with epilepsy and today that is part of a routine diagnosis. Right now, we're at another breakthrough point in terms of trying to characterise epilepsy genetically and in turn, this will lead to more personalised medicine and new drug treatments."

Research has always been a key mandate of the Chalfont St Peter-based charity, which was founded in 1892 and is recognised as the UK's leading provider of epilepsy services.

**“Epilepsy isn't a widely talked about subject and it can be difficult to find supporters and ambassadors, which is why we really appreciate the support B P Collins has given us.”**

## Jo Wengler, Epilepsy Society

Its relationship with B P Collins began in 1997, when the charity decided it would benefit from working with a local law firm. What originally began as providing advice on property matters has now expanded into areas including corporate, employment, litigation, private client and charity advice.

Vicky Holland, partner in the corporate and commercial practice, said: "The charity does a fantastic job in raising awareness of the issues around epilepsy and its pioneering research, which is helping to change the lives of many people.

"We are delighted to be able to support the charity and to play our own small part in its ongoing successes."

More than 500,000 people in the UK have the condition, and although figures show that epilepsy carries with it a greater risk of premature death, over a third (39 per cent) of

those deaths are avoidable through better care, treatments and services.

Thanks to its campaigning programme, Epilepsy Society now has more than 2,000 members, 43,000 followers on Facebook and a further 14,000 on Twitter, demonstrating that with loyal supporters such as B P Collins, it is truly making a difference to those who struggle with epilepsy.

## Highlights of B P Collins' support for Epilepsy Society:

- Hosting two art exhibitions featuring work by Art Therapy Centre residents
- Provision of a three year bursary for the Art Therapy Centre
- Sponsorship of charity fundraising dinners and events
- Providing free meeting facilities
- Employees raising funds by running London Marathon and undertaking charity bicycle event Ride100
- Providing funding for the charity's participation in The Patron's Lunch street party, one of this summer's 90th birthday celebrations for Her Majesty The Queen, and supporting its campaign to find five "Epilepsy Heroes" to attend the event

# Adjudication schemes: the legal industry's best kept secret

Nick Hallchurch, partner in the dispute resolution team, blows its cover, believing the scheme could transform the landscape for making negligence claims.



Professional negligence claims can cost a huge amount to both parties involved. Typically most people believe that the only option available to them when mediation has not been successful is litigation through the courts, which can take up to two years to conclude and, because of the time and complexity of issues, costs can rocket.

However, a less well-known option – where the courts could be avoided, thereby reducing costs by up to 75% and having a binding decision within only 56 days – is the adjudication scheme.

## What is it?

This voluntary scheme enables parties in a professional negligence dispute to obtain a ruling from an independent adjudicator that would be adhered to by both parties (if this was agreed at the beginning). Once parties agreed to the scheme, they were bound to its rules.

It recently received a makeover whereby it doesn't just have to focus on claims against your solicitor. It now can be used in a dispute against any non-medical professional (such as accountants, surveyors, valuers, insurance brokers and pension and financial advisors) and there is no longer any cap on the amount under contention.

The scheme can begin at any point in the dispute and both parties can retain the authority to determine both the extent of the adjudicator's role and whether his or her ruling will be binding.

The costs of the adjudicator are graded so that they reflect the complexity and cost of the claim. Both parties are liable to pay the

adjudicator's costs which will remain within a very modest limit, and the adjudicator can have the authority to require the losing party to pay the costs.

## When is it useful?

Did your accountant give you poor tax advice that has cost you money? Or did your solicitor miss the deadline to renew your commercial premises lease causing you a sizeable loss of business? Then the adjudication scheme could be an option for you.

**"Adjudication schemes are designed to make claims affordable, can provide cost certainty and they're quick, so people can get on with their lives."**

## Nick Hallchurch

It is also useful in disputes where the involvement of an experienced adjudicator might help if a crucial technical point has become a barrier to reaching a settlement.

It is worth noting that adjudicators are experts in their field with a wealth of experience so will be able to get to the crux of an issue quickly.

The scheme is likely to be more appealing to a party if they have a claim with good prospects of winning on liability but where the likely damages may make it uneconomical if they pursue the claim to trial.

Many claims previously not considered worth the risk of litigation may now be seen as worth pushing forward into adjudication.

Moreover, there is a risk of reputational damage by going through court as all decisions by the judge will be made public, whereas all information will remain entirely confidential in an adjudication scheme if both parties agree to it.

## What's the alternative?

It's important to note that adjudication may not be suitable for all disputes, such as those where complex expert evidence is required.

Currently there are no specific sanctions for a party that unreasonably refuses to engage in adjudication and chooses litigation through the courts instead. However, this point may be considered by the judiciary in due course.

Nick adds: "It is worth considering adjudication schemes, and the dispute resolution team have substantial experience in negligence claims across a range of industry sectors and have recovered six figure sums for damages."

To speak with Nick or a member of the dispute resolution team about negligence claims, call 01753 279035 or email [disputes@bpcollins.co.uk](mailto:disputes@bpcollins.co.uk)

# Hidden property taxes after separation

The latest Stamp Duty Land Tax (SDLT) rules, which were introduced in April 2016, meant that anyone buying a second home for any reason could have to pay a higher rate of stamp duty than someone buying a property which would be their main home. Claire Filer looks at how the new rules could severely impact divorcing couples.



If you're a homeowner, be aware of the tax implications when dividing your assets. For example, on a property in the South East which could typically cost between £250,000 and £925,000, the buyer would have to pay 8 per cent stamp duty, rather than 5 per cent, if the higher rates apply.

Claire Filer, senior associate in the family practice group, considers the impact of these new rules after separation.

## Dividing assets

On divorce or dissolution of a civil partnership where one party retains an interest in the family home (or indeed another property such as a buy-to-let or second home), they could be liable for thousands of pounds in extra tax when they buy their own home.

In some instances an agreement might involve one of them retaining an interest in the family home to be realised later (for example when the children reach 18) and also going on to acquire their own property.

Advice should therefore be sought about possible alternatives such as having a charge over the property instead of retaining an interest.

This could also affect individuals who are financially able to acquire a second property prior to reaching an agreement with their spouse and have not yet divested themselves of their interest in the family home.

However, there is some protection for people in this situation as it is possible to claim a refund

on the extra tax if their interest in the family home is realised within three years of the acquisition of the new property.

**"It is also important to consider the impact of SDLT on unmarried couples – a sector that has risen by nearly 30 per cent over the past decade – who wish to separate."**

## Claire Filer

### Unmarried couples

Whereas couples who are divorcing or dissolving a civil partnership that transfer ownership of a property as part of an agreement or court order are not subject to SDLT, this is not the case for unmarried couples or those not in a civil partnership.

In this case SDLT will be payable if you transfer ownership of an interest in property to your partner and receive cash or other consideration in exchange.

HMRC effectively regards the transfer of ownership of a property between an unmarried couple as a normal residential property transaction and require the payment of SDLT.

### Capital Gains Tax

Couples who are splitting up also need to be aware of Capital Gains Tax.

If the family home is sold or transferred after the tax year of separation, the normal rule – where transfers between spouses are made on a no gain / no loss basis (and therefore not chargeable for Capital Gains Tax) – will no longer apply.

In this instance, people should be particularly aware of the rules about principle private residence relief, which is not always available if you have been separated more than 18 months before you dispose of your interest in the family home.

"B P Collins' family practice works very closely with its property lawyers in order to provide the most comprehensive advice to its clients on what financial hurdles could lie ahead for couples that choose to separate," Claire concludes.

To speak with Claire about the impact of the new rules following separation, call 01753 279046 or email [familylaw@bpcollins.co.uk](mailto:familylaw@bpcollins.co.uk)

## Stay in control: create the legacy you want

The number of contentious probate cases is on the rise. Baby boomers have never had it so good yet their millennial grandchildren struggle to get on the property ladder. Family structures are becoming increasingly complex and we are living longer than ever before - giving rise to accusations that the deceased person lacked capacity when the will was drafted. So how can you ensure your wishes are respected and that there are no gaping holes in your will?

Lucy Fisher, senior associate in the wills, trusts and probate practice, offers some key advice.

### It's always worth doing one

The intestacy rules – when the law dictates how your estate should be distributed – are no substitute for making a will, as the rules may be at odds with what you might want to do with your estate. For example, if you pass away leaving a spouse behind, plus children from a first and second marriage, your current partner will automatically benefit from the estate. But what if you would like your children to receive some of your savings?

### Seek professional advice

DIY or online will services might seem like a bargain, but they are usually written in a generic way and often have huge gaps in their provisions. This could give rise to your will being contested in the future. Furthermore, a lawyer will keep all of your files indefinitely including detailed attendance notes; they will consider the capacity of the person making a will and have one to one meetings with their client to ensure they aren't under any undue influence. Online services do not consider these mitigating factors and for this reason will not be able to protect your final decisions against those who wish to challenge your will.

### Consider lifetime gifts

If you have children and one of them has received more financial help during your lifetime – for whatever reason – you may want your remaining children to receive an

equivalent amount (or to reduce the amount going to the child who received the benefit of a lifetime gift) so that all of your children have been equally provided for. This can be done by making provision in your will for accounting for lifetime gifts.

### You don't have to cut someone out completely

It's worth considering making reasonable financial provision for a family member rather than dismissing them completely to try and prevent your wishes being contested.

### Trusts

**"In our experience, most contentious probates arise when someone has been completely cut out of a will."**

### Lucy Fisher

There are a variety of different trust arrangements that can be tailored to your specific needs. But professional advice is essential. As family structures become more complex, not only do you have to think about your spouse's (and possibly your new family's) needs, but what if you have children from your first marriage? Do you need to consider

ring-fencing a proportion of your assets for them for the future?

### Providing a rationale for your decision

One of the most famous cases around contentious probate in recent years was between a mother, Melita Jackson, and her daughter Heather who did not receive any of her mother's estate after she died, as Ms Jackson had dedicated the majority of it to three animal charities.

To support the will, Ms Jackson wrote a letter to record why she did not want her daughter to inherit, but – crucially – did not include why she believed the charities should. Her will was successfully challenged which meant her daughter was subsequently awarded a large share of the estate.

The devil really is in the detail when you want to create a will that's watertight and sets out your wishes clearly.

Being aware of where your will falls short and rectifying it immediately is also key. This is only achievable by following the advice of an independent, experienced lawyer.

To speak with Lucy about creating a will that reflects your wishes, call 01753 279030 or email [privateclient@bpcollins.co.uk](mailto:privateclient@bpcollins.co.uk)

## Zero hours contracts: five things you need to know

Zero hours contracts are widely criticised because of the perceived unfairness of workers being tied to a contract with no guarantee of any work. However, this does overlook the benefit that such contracts can offer to workers as well as employers – mainly being that they can work and operate flexibly, without being tied to fixed hours.

Partly as a result of the criticism levelled at zero hours contract arrangements, recent legislation has been implemented to (amongst other things) make void any exclusivity provision in a zero hours contract.

Some Trade Unions (such as Unite) have argued that this protection does not go far enough (indeed, Unite argue that workers on zero hours contracts should automatically be classified as employees, receiving the protection that goes with that status) and it seems this topic will remain current for some time to come.

### What is a zero hours contract?

It is an agreement whereby an employer does not guarantee to provide work, and only pays the worker for the hours they've worked. The employee usually does not have to carry out the work offered, but must complete it themselves if they agree to take it on.

Zero hours contracts create a pool of workers who are 'on call' and could be asked to work when there are unforeseen increases in workload – for example if staff are unwell – instead of having to hire people on a fixed contract or approach an agency for relief staff.

People on these contracts are more likely to be:

- young;
- women;
- in full-time education; or
- part-time

when compared with other people in employment.

Employment partner Jo Davis and senior associate Chris Brazier explain the five things you need to know about zero hours arrangements.

### In March 2016, 2.5% of the working population were on zero hours contracts, according to the Office for National Statistics.

#### 1. Working for another employer

Employees with zero hours contracts must be allowed to work for another employer.

Under the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015 which came into force at the start of this year, sacking a zero hours contract employee will be unfair if the main reason for it is that they broke a contractual clause preventing them from working for another company.

#### 2. Taking breaks

Zero hours contract workers are allowed a 20-minute break in every six hours worked, 11 hours' uninterrupted rest in every 24-hour period and 24 uninterrupted hours in every seven-day period, just like other workers.

They are not permitted to work more than 48 hours per week unless they have chosen to opt out of that requirement.

#### 3. Annual leave and sick pay

Zero hours contract workers should receive statutory sick pay from the fourth day of their



sickness absence, if their average weekly salary over the last eight weeks is less than the lower earnings limit (£112 per week for 2015/16).

They are also entitled to 28 days' annual leave in total (being the minimum entitlement to annual leave). This can include bank holidays. This will be pro-rated to the average number of days they work per week.

#### 4. National Minimum Wage and National Living Wage

The National Minimum Wage (£5.30 for 18-20 year olds; £6.70 for 21 year olds and over) and the National Living Wage (£7.20 for 25 year olds and over) should be paid to zero hours contract workers who are on their employer's premises, even if they are simply waiting to be allocated work, which must comply with the relevant minimum level.

#### 5. Discrimination

Zero hours workers are protected from discrimination, principally under the Equality Act 2010.

As such, failing to provide consistent terms to zero hours workers could give rise to discrimination claims.

To discuss zero hours contracts with a member of our employment team, call 01753 279029 or email [employmentlaw@bpcollins.co.uk](mailto:employmentlaw@bpcollins.co.uk)

# Golden celebrations at Hedsor House

The historic grandeur of Hedsor House provided the perfect picturesque backdrop for B P Collins' 50th anniversary party earlier this year.

Over 200 clients and guests - including Olympic gold medal-winner Adrian Moorhouse and B P Collins' founder, Brian Collins - attended the firm's 50th anniversary celebrations at the exclusive Hedsor House in Taplow in July.

As guests arrived, they were able to view B P Collins' new sculpture - 'Companions on the Road' - specially commissioned for the 50th through Carina Haslam's gallery in Great Missenden.

Created by sculptor Alain Kurylo, who has exhibited across the UK and France, it is made from sustainable materials to reflect the theme of the firm's 50th anniversary - 'Made to Last'.

The sculpture is on display in B P Collins' office but will also be available to community groups for exhibitions, as part of the firm's

continued support for the arts and the local community.

Guests were entertained on the evening with live music from 'The Revue' and dancers 'Swing Patrol'. They were also served bespoke 'B P Collins' cocktails, which had been created especially for the evening.



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Notary public, Sarah McLoughlin, Martin Silverman and David Wilkinson

Wills, trusts and probate, Craig Williams | Property litigation, Sarah McLoughlin | Residential property, Chris Hardy

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