

in sight

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SOLICITORS



Trends: buying a house | Scaling up a business | Mythbusters: wills | Settled status | P B Donoghue's success

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By your side every step of the way



Technology is transforming our lives, from how we watch TV shows to how we heat our homes.

B P Collins also embraces the positive change that it has brought to people's legal affairs, as it complements our commitment to being accessible to you, enables us to offer a seamless cross-practice service should you have multiple needs and allows us to be #ByYourSide.

Technology also helps to speed things up, which is appealing, but caution should be exercised too, particularly when going online to apply for probate. We are hearing from a number of people that they weren't aware of everything that they had to do to make their online probate application valid.

We discuss this increasingly widespread problem in more detail in this edition of Insight, including situations where an online probate application is not suitable and where there is room for error. You'll also read about matters in the next stage of the business lifecycle. When you're growing your business, you undoubtedly need guidance from the corporate and commercial team. But what about when you're also hiring new recruits or moving to a bigger premises? B P Collins can offer Chambers UK and Legal 500 rated lawyers from a range of practices who can work together to give you tailored, accurate and timely advice, after knowing your plans in other areas of your business. And you'll have all of your legal requirements addressed in one go, so you can get on with growing your company to the next level.

In this edition we also interview Eithne McGowan on the success of P B Donoghue, a leading waste management company, and how B P Collins has helped the business. Finally, we look at families going to court. It doesn't have to be like the daunting experience we witness in many TV dramas. Sometimes taking a dispute to court is the only option, so the family team set out to reassure anyone thinking about taking this course of action.

We do hope you enjoy this latest edition of Insight. Please let us know what you think and any topics you'd like to see in future editions; we'd love to hear from you.



SIMON DEANS, SENIOR PARTNER

Residential property

MATTHEW CROCKFORD, ASSOCIATE

When buying a home with friends in later life, you will become a co-owner. As co-owners you can hold the property in one of two ways, either as joint tenants or tenants in common. If you decide to purchase as joint tenants, upon your death, your friend(s) will automatically assume your share. However, this is not usually a recommended option when buying with friends, particularly if you have family.

The other option is to become tenants in common, where you can each own a separate share of the property which doesn't have to be equal and is likely to depend on how much money each of you has contributed to the purchase of the house. If you pass away, this share can be passed on to your friends or family in a will.

Where you have contributed in unequal shares, or if you want to set out what would happen if one party wanted to sell, you should consider preparing a declaration of trust. A declaration of trust sets out what is agreed at the outset and avoids any disputes further down the line.

When thinking about how you're going to pay for your share of the property, it may be the case that you're able to buy your portion outright after making a profit when you've sold your own home. If you do need a mortgage, it has become increasingly common for building societies to not impose an age limit on mortgage borrowers. However, most put the age you can be at the end of the mortgage term at 80 years old, so be mindful of this before you apply.

Baby boomer buddies buying a house together

THERE IS A GROWING TREND AMONGST BABY BOOMERS WHO HAVE WEALTH TIED UP IN THEIR PROPERTY AND LIVING ON THEIR OWN, TO SELL UP AND BUY A HOUSE TOGETHER WITH FRIENDS IN THEIR LATER YEARS. SOUNDS LIKE A GREAT IDEA, BUT THERE ARE SEVERAL THINGS THAT NEED TO BE CONSIDERED BEFORE MOVING IN.

Wills, trusts and probate

LUCY WOOD, PARTNER

It's vital to plan for the future before moving in with friends. There are several things you should do such as create a will to ensure your assets pass to the individuals you have chosen, rather than the intestacy rules applying.

In your will, you can give your interest in the property to your trustees to hold on trust for your identified beneficiaries.

The trustees have the flexibility to decide how to deal with your share in the property based on the circumstances at the time. The trustees can be guided by a side letter stored with your will which you can change at any time without having to amend the will.

You can also specify that after you pass away, your friends can remain in the property for the rest of their lives and once the last surviving friend is gone, your share in the property will pass to your chosen beneficiaries.

Every member of the group should also set up a power of attorney, appointing people whom they trust to make decisions should they lose capacity. An attorney can make financial and/or welfare decisions on your behalf when you are no longer able to; this could include decisions about your share in the property.

It's important that you discuss at an early stage what will happen if one party dies or loses capacity.

ADDITIONAL ADVICE FOR COUPLES LIVING TOGETHER BUT NOT MARRIED OR IN A CIVIL PARTNERSHIP:

Family

FRAN HIPPERSON, PARTNER

It is vital to regulate your legal relationship with whomever you are living with and if living together as a couple, you need to make decisions about your household finances at the outset. This is important if you are to avoid a bitter dispute if the relationship breaks down and, for example, if living in a property owned by one of the couple, your cohabitee could seek to claim that payments they have made have resulted in them having an interest in the property if there is no agreement to the contrary.

To provide reassurance, a cohabitation agreement is very useful as it provides clarity and certainty about your positions before moving in together and typically records what you've agreed about financial matters (over and above interests in the property which would usually be set out in a separate declaration of trust) including the payment of household outgoings or the management of joint accounts and what happens if the relationship breaks down.

It might seem unusual, but for greater harmony in the relationship, and to ensure that expectations are managed, it can also include who is responsible for which household tasks or a veto on inviting friends or relatives without the other's agreement!

Remember that these types of agreement are not just for the wealthy. The key purpose of such agreements is to provide clarity and to avoid potential future conflict, whatever your financial circumstances.

If you're moving in together as friends or as a couple, it's important to seek legal advice.

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P B Donoghue: *Innovating the waste market*

EITHNE MCGOWAN IS THE FINANCE DIRECTOR OF FAMILY-OWNED WASTE AND RECYCLING COMPANY P B DONOGHUE, WHICH HAS SEEN THREE GENERATIONS RUNNING THE BUSINESS FOR OVER 40 YEARS. SHE TALKS TO INSIGHT ABOUT THE COMPANY'S SUCCESS, ITS RELATIONSHIP WITH B P COLLINS AND BEING A WOMAN IN A MAN'S WORLD.

How did you get to where you are today?

Even though I grew up in the family business, I thought my career would head in a different direction after I finished my education. But once I started working for P B Donoghue, I just loved the work and have been here ever since.

I've been employed in every single part of the business; I initially came in right at the bottom answering telephone calls and worked my way up to become finance director.

I believe that hard work and a very thick skin is needed in this world. The construction sector is very male dominated - only 13% of the UK workforce are female - but I've got an amazing team that redresses that balance.

As a woman in a senior position, it's important to let people know that you're not a soft touch and I try to be a role model for other women who would like to move up the career ladder.

Best part of the job?

Seeing the business grow. My father came to England when he was 16 and started working for a construction firm. He and my mother took a chance and put all of their savings into one lorry - and here we are over 40 years later. It's a pleasure to watch the business continuing to grow and my father still has a great sense of pride seeing his name above the door.

Hardest part of the job?

There is a huge shortfall of operational staff in the industry at the moment. The construction sector is really suffering with a lack of qualified people due to Brexit. We have a high number of Eastern European drivers, who form the core of our business, but since Brexit, long term employees are choosing to return home as they feel quite unsettled. The biggest challenge is to keep staff levels up on the driving front.

How have you contributed to P B Donoghue's success? How was B P Collins involved in this?

I think our greatest strength is the fantastic team that I've built up. We value our people and the contribution they've made, particularly the operational systems they've put in place and the accreditations they've helped the company to achieve.

I'm also grateful to B P Collins who we've been working with for four years. They initially advised us on a big claim that a company made against us and we worked very closely with Craig Williams and Rajiv Malhotra, from the dispute resolution team, to overcome that. They've been superb. We've also worked with Jo Davis on the employment front, who is brilliant too. We see them as a very good support for our business.

What challenges does your sector face?

The biggest challenge is keeping on top of how Brexit will shape the future of recycling.

Compliance changes rapidly too. This year alone, the Mayor of London has already issued new laws around the type of vehicles that are permitted to enter London. It's imperative that we keep our fleet in line with the new regulations.

If you weren't finance director of P B Donoghue, what would you be doing?

If I wasn't sitting on a beach in Portugal, I think I would have been involved in the fashion industry, as I love shoes and handbags. Who knows, perhaps I would have taken the environmentally conscious recycling ethos of P B Donoghue and been an advocate for upcycling in the industry!

Read the full interview on B P Collins' website.

CRAIG WILLIAMS, DISPUTE RESOLUTION PARTNER, WORKS CLOSELY WITH P B DONOGHUE. IF YOU NEED ADVICE, CONTACT CRAIG ON 01753 279035 OR DISPUTES@BPCOLLINS.CO.UK

Will I Won't I?

A RECENT MACMILLAN CANCER SUPPORT SURVEY HAS FOUND THAT NEARLY **two thirds** OF UK ADULTS HAVE NOT PREPARED A WILL.

THERE ARE VARIOUS REASONS FOR THIS, INCLUDING MANY PEOPLE THINKING THEY ARE NOT OLD ENOUGH OR THAT THEY ARE TOO BUSY TO GET AROUND TO IT. IF YOU'VE NOT MADE A WILL, PERHAPS IT'S TIME TO TAKE OUR QUICK TEST WHICH MAY PERSUADE YOU TO START PLANNING FOR THE FUTURE.

1. I don't need to make a will as I am married and everything will go to my spouse if I die.

FALSE. When a person dies without making a will, their estate is subject to the rules of intestacy. Many people assume that their spouse would inherit all of their assets, but this is not always the case. In general, the spouse would inherit the first £250,000 of the estate with the remaining assets being divided between the spouse and the deceased's children.

2. Once I pass away, all my debts will be cancelled.

FALSE. The deceased's assets will be used to pay off any debts. Beneficiaries (either in a will or under the intestacy rules) will receive any estate that remains.

3. I can only set up a power of attorney (LPA) when I have full mental capacity.

TRUE. An LPA can only be created by the person whose affairs will be taken care of. If that person doesn't have the required mental capacity they cannot proceed. The family will have to apply to the court for a deputyship appointment which is both costly and time consuming.

4. I only need to think about a will when I'm much older.

FALSE. No-one can predict the future and know how long they're going to live. Preparing a will now ensures your loved ones are protected.

5. I can make a will all on my own.

TRUE, BUT NOT ADVISABLE. Many homemade wills contain errors which invalidate the will or a particular gift. Common mistakes include failing to sign correctly, not securing appropriate witnesses (such as minors or beneficiaries) or using incorrect wording.

Seeking expert advice ensures the correct procedures are followed and the adviser will talk you through everything - including things you may not have thought about!

Speak to our expert wills, trusts and probate team about putting your will in place.

CALL 01753 279030 OR EMAIL PRIVATECLIENT@BPCOLLINS.CO.UK

Settled status

THE RIGHTS OF EU CITIZENS WHO RESIDE IN THE UK TO LIVE AND WORK WILL CHANGE WHEN THE UK LEAVES THE EUROPEAN UNION. IN READINESS, THE GOVERNMENT HAS INTRODUCED THE EU SETTLEMENT SCHEME. CHRIS BRAZIER PROVIDES AN OVERVIEW ON ELIGIBILITY.

PLEASE NOTE THAT THIS ARTICLE IS ACCURATE AT THE TIME OF GOING TO PRINT.

If you are granted settled status, you can live and work in the UK for as long as you like. You are entitled to settled status if you start living in the UK by 31 December 2020 (if there is a deal) or by the date the UK departs in a 'no deal' situation.

To obtain settled status you need to have lived in the UK for a continuous period of five years. Once you have settled status, you can spend up to five years in a row outside the UK without losing this right. If you started living in the UK before 31 December 2020 (where there is a deal, or by the date the UK departs in a no deal situation) but have not lived in the UK for a continuous period of five years, you should be granted pre-settled status instead.

If you have pre-settled status you can live and work in the UK for up to a further five years to reach the five year continuous residence threshold. Once you have reached the threshold, you will be able to apply to change to settled status. Save for some limited exemptions, if you spend a total

of six months in any 12-month period outside the UK, you will lose your permission to remain and will not be able to apply for settled status.

Applications should be made using a smartphone or tablet app called *EU Exit: Document ID Check*.

The EU Settlement Scheme is open to EU citizens and their family members, who may not be EU citizens.

If you're an employer, Chris can also visit your premises to brief EU national employees on the latest criteria for achieving settled status. Read the full article on our website to find out more about family members who are eligible and applicants' suitability.

Contact Chris Brazier to receive the most up to date advice.

CALL 01753 279029 OR EMAIL EMPLOYMENTLAW@BPCOLLINS.CO.UK



How to: **TAKE YOUR**
business
TO THE
next level

ARE YOU A BUSINESS OWNER LOOKING TO EXPAND AND ENTER THE NEXT STAGE OF YOUR CORPORATE LIFECYCLE? EXPERTS FROM OUR CORPORATE AND COMMERCIAL, PROPERTY AND EMPLOYMENT TEAMS EXPLORE THE KEY ISSUES TO HELP AVOID ANY GROWING PAINS.

Corporate and commercial
DAVID SMELLIE, PARTNER

EXPLOITING INTELLECTUAL PROPERTY (IP) RIGHTS

Your business might make use of different IP rights, such as copyright, patents, trademarks, moral rights and rights in designs. Exploiting your IP and the IP of others allows you to maximise your own business and that of others who have been given your permission to use your IP. Before you proceed, it is important to consider how you can best exploit the IP rights and what the consequences of each of the various different options may be. For example, will such exploitation be through assignment, licensing, distribution, sponsorship, franchising, or co-marketing and co-promotion arrangements?

You may wish to acquire IP to move your business in a new direction, such as to start manufacturing a product which previously your business has only sold. If you are acquiring IP from someone else, be it through licence or assignment, you will want to make sure that the IP is accurately defined so that you can be certain of what you are and aren't acquiring and what you can and can't do with it. A lawyer will be able to ensure that the relevant agreement accurately defines the intellectual property that is being licensed or assigned to give you the certainty you need.

An assignment transfers the IP from one person to another. If you are taking an assignment of IP, typically you will pay a one-off lump sum to the assigning party, who will then no longer have any involvement in the exploitation of the IP. Typically you will want the person from whom you are acquiring the IP to make certain warranties - that is, legally binding promises - about the IP. For example, you may ask them to warrant that they are the sole legal owner of the IP and that they are not aware of any infringement. If they breach those warranties then they could be liable to pay out damages. An assignment should always be recorded in a formal agreement drafted by an experienced lawyer who can advise you of what risks should be covered by the warranties.

If you licence your IP, you remain the ultimate owner of the IP but you give someone else a right to use it. You may want to do this because others may be better placed to exploit the IP, or because you wish to raise the IP's profile. The licence can be adapted to suit your needs, such as limiting it by time or to a particular territory, by making it exclusive or non-exclusive, or something more fluid. So, for example, you might grant one company with a strong customer base in England the right to use your IP in England, but a second company the right to use it in Scotland, where the first company's business is not so well developed. This could allow you to maximise the benefit you receive from the licence. A lot of negotiation is usually involved to reach an agreement, which is why a lawyer with expertise in this area is essential.

FUNDING YOUR BUSINESS

Of course, another thing you'll need is money to expand. Two common ways of raising this money are by borrowing money or by issuing shares in your company to investors. Many businesses use a combination of the two.

If you are taking out a loan, there will be a variety of documents on which you might need legal advice such as the effect of the facility letter and the terms of any debentures and charges (although these agreements may not be negotiable). You may also be asked to guarantee the loan in your personal capacity so that the lender can recover the debt from you if your company cannot pay. It is essential that you take advice on a personal guarantee as there could be severe financial consequences for you if the guarantee is ever enforced against you.

If you are issuing shares to investors, you must make sure you follow the proper process. For example, your company's articles - its rulebook - might require that you give existing shareholders a right of first refusal over any new shares being issued. You might also want to create a new class of share for your investors (this will probably be dictated by the investor) and in that case your company would need new articles which would set out what the voting and dividend rights of those shares are. An expert lawyer will be able to help you make sure you follow the right process and that your investors get what they paid for.

There is also likely to be a complex investment agreement and your investors are likely to want you to give warranties in relation to your company, which you should make sure are as specific as possible. Some common warranties found in investment agreements include:

- that accounts have been properly prepared and any projections have been prepared on a reasonable basis;
- the management accounts are materially accurate;
- the company owns all of its IP; and
- no one has any claims against the company and the company is not involved in a dispute.

Because of the complexity of investment agreements, it is sensible to have a lawyer to review the documentation and assist with negotiations.

The commercial reality is that sometimes there may be little room for negotiating the terms of any funding because a lender or investor may make their offer on a "take it or leave it" basis. Even so, it's best to have a lawyer by your side to make sure you understand the possible consequences for you and your business and to help you achieve the best possible outcome.

Commercial property

MARIA MOWBERRY, PARTNER

Renting commercial premises for the first time can be a huge step for any business, not least the hefty financial commitment it can bring. To avoid potential pitfalls, it's imperative to check whether the premises are suitable for your needs and always read the lease.

Leases typically last five years. If this is too much of a commitment, you need to make sure that you can assign the premises to another business during this time. It's also worth considering a break clause to get out of a lease if needed. You may need to pay more rent at the beginning but if something does happen to your business, a rolling break clause is

worthwhile as it will allow you to leave at any time giving around three months' notice to the landlord.

But be aware that the new tenants that you've assigned the lease to might be unwilling to assume building dilapidation liability (and the costs this could bring) if taking an assignment of the lease for a shorter period. This means you would still be liable. Dilapidations are areas of the building that are in a poor condition or have shortcomings, which tenants have to remedy or pay to have fixed under their lease covenants.

You may wish to share commercial premises with another tenant to spread the cost. It's worth checking if part of the space can be sub-let to another tenant.

Energy efficiency regulations make it unlawful for landlords to grant a new lease of properties that have an energy performance certificate rating below E. Tenants should check with landlords what building work may be planned to make the building fit for purpose and whether renting out a new floor or area is a possibility to avoid disruption.

Employment

KATHRYN FIELDER, SENIOR ASSOCIATE

EXPANDING YOUR TEAM

Before new employees begin their first day, it's always important to have a signed contract in place. It can be tempting to download one from the web, but it won't be tailored to your company. It may have irrelevant clauses and might not have the right terms and conditions to protect either party. It's also likely to be more cost effective to create a new contract than have a lawyer review an existing one.

An employment lawyer can also advise on how to add an effective restrictive covenant into your contract to make sure that an employee doesn't work for a competitor or take your clients with them if they leave.

An employee handbook should also be considered. It should include anti-discrimination and equality policies, shared parental leave, guidelines around employees' use of social media and the internet, policies around bullying and harassment in the workplace, training and development, pay policy and staff behaviour at company events. There should also be disciplinary and grievance procedures as this will aid employees' understanding of the various rules.

A policy handbook can also help to avoid future complaints from employees which could cause morale to take a nosedive, highly-skilled people to leave, and there could be huge cost to the company - in time, money and reputation.

For advice on expanding your business, contact our expert teams.

CALL 01753 889995 OR EMAIL
ENQUIRIES@BPCOLLINS.CO.UK

DIY probate: the hidden costs

WHEN SOMEONE DIES, YOU MAY BE IN CHARGE OF SORTING OUT THEIR ESTATE IN A PROCESS KNOWN AS 'PROBATE', WHICH CAN BE ARDUOUS AND TIME-CONSUMING, TAKING MONTHS TO COMPLETE. IN 2017, THE GOVERNMENT LAUNCHED AN ONLINE SERVICE AIMING TO MAKE THE PROCESS EASIER.

This online service's current key features include filling in an online statement of truth, so there is no requirement to swear an oath in person, paying fees online and the facility to save and return to your application rather than having to complete in one sitting.

Room for error

Although applying online for probate simplifies some elements, there is still a lot of scope for personal applicants to make mistakes. Since the launch, many people have made errors on their application or haven't claimed all the available

inheritance tax exemptions and subsequently ended up paying the taxman huge amounts of money.

Other errors can be made when obtaining valuations of assets and not knowing what HMRC will accept, whereas lawyers have expertise in this area.

An executor will also need to provide information on any lifetime gifts made in the last seven years as it affects the nil rate band and potential inheritance tax that may be attributable to those gifts. There are annual exemptions and a lawyer would be able to claim all the reliefs available, whereas a lay executor may not be aware of these.

It's also important to note that HMRC is not making tax rules any simpler. A lawyer can help you navigate the myriad of regulations to help you claim for tax relief.

Using a probate solicitor

How much this will cost is probably a key concern when thinking about instructing a wills, trusts and probate lawyer. However, as this is one of the more important legal processes that you will ever go through - for example, a grant of probate is needed to sell most assets including a property - expert advice should be taken.

Moreover, the forms to be submitted to HMRC are lengthy and are not always straightforward. This complexity can also escalate if additional information comes to light or there is a beneficiary dispute. These are situations where a solicitor's advice would be invaluable.

B P Collins offers a complete probate service, from tax and property advice through to estate administration affairs, or a combination of any of these. If an executor collates the necessary information, our experienced lawyers can then deal with the completion of the inheritance tax pertaining to the grant of probate. We aim to provide our clients with the highest level of service no matter the value of the estate.

WHEN ONLINE APPLICATIONS AREN'T ALWAYS SUITABLE:

Whilst online applications are useful, they are not suitable for every situation, particularly when it's a more complex matter. Here are some examples:

- Where there is more than one executor applying for probate. If one executor applies for probate on their own and chooses to have Power Reserved to them without notifying the other executors, this could make the situation very contentious and give rise to a dispute.
- When the deceased died without making a will and intestacy rules apply. When this happens, the probate registry will always want to know in more detail about the deceased's affairs which should be prepared by a lawyer in a statement of truth. A lawyer will also include what the order of entitlement is.
- Where there is a foreign element. Lawyers will know which laws apply to which jurisdiction. Or if you are based outside England and Wales, you will need an expert within the jurisdiction to deal with matters for you. Lawyers also have contacts in many jurisdictions to ensure the right tax is paid in the right place and where tax relief can be claimed.
- When there is a beneficiary dispute.
- Where there are multiple assets.



For further information on probate or for pricing details, contact Sharon Heselton or a member of our wills, trusts and probate team.

CALL 01753 279030 OR EMAIL
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Best of Bucks

RIISING SPORTS STARS RECEIVE GRANT

Three SportsAid grants have been presented at the Bucks Sporting Lunch Club, which took place at Dorney Lake on Friday 3 May 2019. Buckinghamshire teenagers Isabelle Tucker, a volleyball player, Ilse Owen, who competes in para-equestrian dressage and Joe Murphy, a rower, were all presented with their grants by 2003 Rugby World Cup winner and former Wasps star Simon Shaw MBE.

Isabelle Tucker, Naphill

Naphill's Isabelle Tucker is 14 years old and an under-18 England National Beach volleyball champion. Unusually for a volleyball player competing at an international level, she plays both indoor six-a-side and beach volleyball. Isabelle cites her mum as her greatest influence:

"I only started playing volleyball after my mum encouraged me in the US when I was nine years old. When we moved to Naphill, there were no volleyball clubs, so my mum decided to set one up. She is a huge support and is well on her way to securing a beach court for us in or near to High Wycombe, which is desperately needed to help me prepare for international competitions."

This summer Isabelle will prepare for England selection in multiple international beach volleyball competitions, which means extra training costs, event entry fees, travel and hotel stays. The SportsAid grant will help with these costs.

Ilse Owen, Great Missenden

Great Missenden's Ilse, a para dressage rider, has Hemiplegic Cerebral Palsy, which means she cannot feel or control the right side of her

body. This can cause tension especially in cold weather conditions, but Ilse says:

"As a para-athlete you have to be resilient and I work incredibly hard to minimise those challenges. In a way, the trials I have faced with my disability have helped me to become a stronger and more well-rounded sportswoman and individual.

"But no matter how hard I work as an athlete, the biggest challenge is finding the right horsepower to take me to a Paralympic games. I would really like to find a supportive owner with the right quality of horse to challenge for a Team GBR World Class Podium Potential Squad place in 2020."

Ilse trains four times a week with her horse Aslan and has ambitions to be part of the Equestrian Team GB at the Paralympics.

Joe Murphy, Henley-on-Thames

Joe Murphy lives and studies in Henley-on-Thames and trains at the Leander Club in the town. Joe first started rowing in his spare time after his rugby season ended, but soon found that he was winning races so decided to focus completely on his new sport.

Joe has already represented Great Britain at the Coupe De La Jeunesse, winning bronze in the double scull in 2018. He has also won a gold medal at the Head of the River Fours in 2018 and reached the semi-finals at Henley Royal Regatta in the Fawley Cup in the same year.

His goal is to represent Team GB and win gold at the Henley Royal Regatta. His award money will go towards accommodation in Henley so he can continue to achieve his rowing ambitions.

Joe adds:

"I aspire to be like Pete Reed OBE, a three-time Olympic gold medallist. But my biggest hero is my father Mike Murphy, who coached me from the first day I got into a boat, until the day I left home to join the Leander Club in Henley. He was always by my side pushing me and my team mates on."

Steve Perry, a SportsAid trustee from B P Collins, said at the event:

"Over the past six years, with the support of our local business sponsors, SportsAid has been able to help many local young people achieve their sporting potential. I am very interested in assisting any local businesses seeking a CSR opportunity, or simply welcoming them to our events and having an enjoyable time networking, safe in the knowledge they are also helping a young person achieve their sporting dream."

After Simon Shaw MBE spoke to the 140 strong audience about his late development into professional rugby at 16, his sporting career and subsequent transition into business after retirement, he also commented on the awardees:

"Each young sportsperson has shown huge dedication and commitment and has made many sacrifices to get to this point in their career. Their stories are very inspirational. I hope that the funding granted to them today will help move them closer to reaching their goals of representing and winning for their country in international competitions."

Dear B P Collins...

A COUPLE OF YEARS AGO, MY EX-WIFE AND I DIVORCED, RETAINING JOINT PARENTAL RESPONSIBILITY FOR OUR TWO CHILDREN WHO ARE 8 AND 10. WE AGREED TO SHARE CARE OF THE CHILDREN ON AN INFORMAL BASIS. THE ARRANGEMENT WAS GREAT AS WE BOTH LIVED NEAR EACH OTHER AND THE CHILDREN STAYED WITH ME 3 OR 4 NIGHTS EVERY WEEK. WE ARE BOTH IN NEW RELATIONSHIPS AND ALTHOUGH THE CHILDREN REALLY LIKE MY PARTNER, I'VE HEARD A FEW NEGATIVE COMMENTS FROM THEM ABOUT MY EX-WIFE'S BOYFRIEND. A COUPLE OF WEEKS AGO, SHE SAID THAT SHE WANTED TO MOVE BACK TO MADRID WHERE SHE WAS BORN AND GREW UP (AND WHERE HER PARENTS STILL LIVE) WITH THE CHILDREN AND HER PARTNER WHO IS ALSO SPANISH - AND I'M ABSOLUTELY FURIOUS. THERE IS NO WAY THAT I WILL AGREE TO THIS. THE THOUGHT OF JUST SEEING THE CHILDREN DURING THE SCHOOL HOLIDAYS IS UNBEARABLE. WHAT CAN I DO?

- John, Beaconsfield

We're sorry to read this John. We completely understand why you're feeling this way, considering how involved you are with your children's lives and that the proposed move, if you agree to it or the court gives your wife permission to relocate with them, is likely to have a significant impact on your relationship with the children.

We would always recommend that you have a discussion with your ex-wife in the first instance to see if you can come to an agreement about what is in the children's best interests. Although you have separated, it is important that the children see you can make decisions together and it may be that talking things through together provides a solution that you can both live with and you have not contemplated before.

If you can't make a decision together, then your ex-wife will have to make an application to court for permission to remove the children permanently from England and Wales. That is a last resort, but it will be necessary if she still wants to go. Although the thought of court proceedings is daunting, if you really feel it is not in your children's best interests to go (for example because of the impact on their relationship with you or other family members, or educational concerns that may not be met in the schools in Spain) you have no choice but to defend the application.

It is vital to speak to a lawyer who will present your case in the best possible light to the court and help you to shape solid objections as to why your children moving abroad is not in their best interests. This will inevitably change on a case by case basis and will very much depend on what is in the best interests of your children. It is important to have much more detail about what has been happening since you separated and what plans your former wife has in place - since the merits of her application and the thought she has put into it are a vital part of the picture.

The key is to remain focused on the children as this is ultimately what the courts will do. The judge will want to know about how your children are getting on in school, activities they're involved in, look at their family situation, and the effect of having less contact with certain family members. It's also important to note that the children could be interviewed by a court-appointed welfare officer or social worker as well, to get their thoughts. Thought will also be given as to the alternatives. For example, will your ex-wife still move if the children stay here and would

that be in their best interests? You mention that your children will be closer to their grandparents in Madrid, do they already have a close relationship with your parents or wider family?

If the judge agrees to the children moving to Spain, the court order will usually include details of the times that the children will spend with you and the measures that will be taken to ensure that a good level of contact continues, such as spending time with you at weekends and in the school holidays and remaining in regular contact by email or phone in between. You will then be advised to obtain a "mirror" order in the country that the child is moving to, which we could help with.

If your former wife took your children permanently abroad without your permission, this is regarded as parental child abduction and there are international legal agreements which are designed to enable the return of your children to England as soon as possible, which both the UK and Spain have signed up to. There are concerns about whether this procedure will work as smoothly if there is a "no-deal" Brexit and so it is important that you take advice at the earliest opportunity. Once the children have returned, your ex-wife would still need to make her application for permission, although this may be affected by her decision to go without having done so in the first place.

Although you're feeling angry now, it is vital to keep emotions under control when dealing with this situation. It will no doubt give you some comfort to know that she cannot move without your involvement and agreement. Remain focused on the children throughout.

- Claire Filer, family partner

If you're in a similar situation or would like advice on a family matter, contact the team.

CALL 01753 279046 OR EMAIL
FAMILYLAW@BPCOLLINS.CO.UK

London calling

We are excited to announce that we now have a *London* presence, following strong demand from clients, with a new office now open in St. Pauls.

This is a very *exciting step* for the firm and our two offices will mean that clients will now have the option of meeting in London or Buckinghamshire.

For more information, visit our website or contact us.



News round-up

Recognising excellence

We are delighted to announce the following promotions as of 1 May 2019: *Chris Brazier* has been promoted to partner in the employment team, where he heads up its business immigration practice. *Dominic Ibbs* and *Tom Bird* in the wills, trusts and probate team have also been promoted to senior associate and associate respectively. In the property team, *Emily Halley* has been promoted to associate following a strong year. *Steve Perry* has also been promoted to business development manager. *Congratulations* to all on their well-deserved appointments!



Did you know...?

The number of families formed by unmarried, cohabiting couples has rocketed from 1.5 million in 1996 to *3.3 million* in 2017. (ONS).

Couples who choose not to marry or enter into a civil partnership have no automatic *inheritance rights* when a partner dies without leaving a will. If you do inherit from an unmarried partner, the spouse exemption for *inheritance tax* is not available.

In circumstances where one partner dies without leaving a will and making reasonable provision for the other to live on, the surviving partner may be able to make a claim against the estate.

Get in touch with B P Collins' wills, trusts and probate team to see how you can best *plan for the future* and protect your rights if you're currently cohabiting with your partner.

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