insight

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The latest legal news and views from B P Collins LLP | Issue No. 25 May 2015

Birth of new rules for working parents

The birth of a baby is always an important event and while not everyone's arrival will generate the global headlines of Prince George's sibling, there's no doubt that for all parents it's a time to adapt to a new routine.

Traditionally, working mothers have been able to take maternity or adoption leave and fathers for paternity leave, but thanks to new Shared Parental Leave (SPL) rules which came into force on 5 April, new mothers can now share up to 50 weeks of their maternity or adoption leave with their partner.

This means, unlike before, both parents can be off at the same time if they wish and, as employment lawyer, Hannah King, explains, this can have significant implications for employers and employees alike.

"The new rules allow parents who are expecting or adopting babies due on, or after 5 April, to share the leave due to them," she said.

"The idea is to enable both parents to be the primary caregivers and enjoy time together with their newborn.

"The new rules are quite complex and, providing the eligibility criteria have been met, and an employee requests a period of continuous leave, there is very little an employer can do in terms of not allowing leave, even if this is at a very inconvenient time.

"This requires a huge change in the way companies approach time off, especially where both parents are employed in the same business.

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"At the same time, employees also need to understand the strict timeframes, what I refer to as the 'magic eight week number', if they want to take up SPL. The application process is quite complicated, with lots of information required, so allow plenty of time to go through the details.

"Early discussion and flexibility are really important and we would urge both parties to think ahead in order to reach agreements which work for each of them."

The timetable

Prospective new parents must submit a notice of intention and eligibility, or an "Opt in Notice", to their employer at least eight weeks before the first date of the proposed Shared Parental Leave period. This must be accompanied by a notice of curtailment from the mother to end her maternity or adoption leave on a specific date.

It must also include the start and end dates of any maternity leave taken, the total amount of SPL available, and how much SPL each parent intends to take.

Although at this point the dates are non-binding, prospective new parents will be asked to give an indication of the dates they are likely to be away – enabling employers to start thinking about how to cover for their absence.

At the same time, employees also have to give at least eight weeks' notice to claim Shared Parental Pay (ShPP) – outlining how much they are entitled to claim, how many weeks each parent intends to claim for and when.

Employees also need to give their employer a formal Period of Leave Notice, again at least eight weeks before the intended period of SPL starts. At this point, presuming the employer accepts the application, it becomes binding, unless a separate agreement to alter it is reached.

There can only be a maximum of three separate Period of Leave requests to cover the SPL time, which means if an employee tries to amend a previously agreed Period of Leave, then this will also count as one of the three requests.

"The application process is quite complicated, so allow plenty of time to go through the details. Early discussion and flexibility are really important."

Hannah King

"The new changes have been quite well publicised and, from the businesses we've been talking to at our seminars, we're confident that many employers are on the ball with the new regulations," continued Hannah.

"We have been working with a number of clients to review and draft bespoke policies. However, there are some ambiguities and scope for dispute, so we would urge anyone – employer or employee – who does have concerns, to talk to us."

Advice for future parents

- Have an open and frank discussion with your employer as early as possible and explain your intentions so you can resolve any potential issues
- Ask to see your employer's SPL policy; this will set out the necessary timeframes and notification requirements
- Decide which of you wants to take leave and when
- Remember you can make three separate requests for leave during SPL periods
- Don't miss the deadlines, or your employer can refuse your request

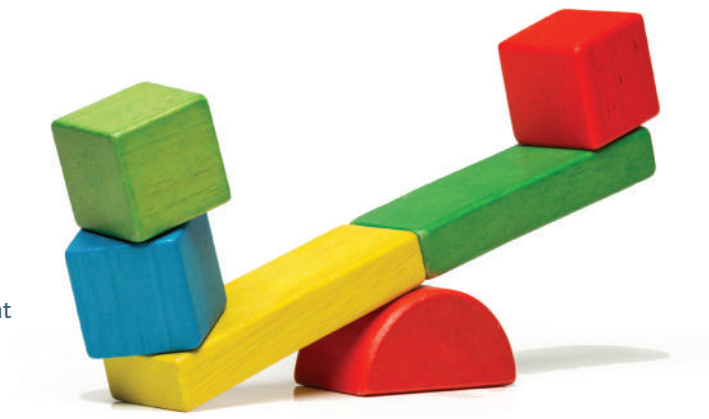
Advice for employers

- Ensure you have an SPL policy in place
- Recognise that the law applies no matter how big or small your team
- You can ask an employee if he or she would be prepared to return to work for up to 20 days, for example to complete a particular project, without compromising the SPL agreement
- If you find out SPL is being abused or not used for its main purpose you can take disciplinary action

To speak with a member of the employment law team at B P Collins LLP about your parental rights at work or to update your family friendly policies, call 01753 279029 or email employmentlaw@bpcollins.co.uk

The potential ups and downs of IHT

Thanks to the recent Budget and a high profile court case, inheritance tax has been in the news. With the general election just days away as Insight went to press, it's extremely likely that some IHT changes will be on the way.



Private client partner Paul Lowery says no matter what future governments have in store, working with a solicitor is the only real way to ensure your affairs are handled to the letter of the law.

If the Conservatives are successful, Chancellor George Osborne has already announced that from April 2017, parents would each be offered a further £175,000 "family home allowance" to enable them to pass property on to children tax-free after their death.

This could be added to the existing £325,000 inheritance tax threshold, bringing the total transferable tax-free allowance from both parents in a married couple or civil partnership to £1m. The proposed additional allowance would only apply to a principal private residence and to direct descendants of the deceased.

The Conservatives say the full amount would be transferable even if one spouse had died before the policy came into effect, therefore benefitting existing widows and widowers. Be warned however, that the plans include tapering off the tax relief for higher value estates over £2 million.

While these proposals may fall short of what many were hoping for in terms of a much higher overall IHT allowance, the reality is that the Treasury needs revenue from IHT.

At the time of writing, the position was uncertain, but one new move that the Chancellor did announce in his Budget is a review of Deeds of Variation (DoV), in order to crack down on potential inheritance tax avoidance.

The reality is that a DoV – a way of changing a deceased person's will – has always been a concession and personally, I don't believe that using a DoV usually results in less tax being paid, at least not in the short term.

Classically it is most often used when an elderly parent leaves an estate to "children" in their 50s and 60s who already have wealth of their own. A DoV has enabled them to pass the estate through to the next generation without having to engage the rule by which they must survive for seven years.

No matter what future governments have in store, working with a solicitor is the only real way to ensure your affairs are handled to the letter of the law.

If the review does come down in the favour of change, then the key implication will be the need to firstly make a valid will, review it regularly and consider building much more flexibility into your will at the time you make it.

Fortunately there are provisions available to achieve this, for example by building in discretionary trusts of residue which, at the discretion of the trustees, allows assets to be passed straight to grandchildren if the children don't need the money. The key is to take professional legal advice to ensure the most efficient outcome is achieved.

In the news

A recent court case saw a woman sent to jail for two years and eight months after she lied to avoid paying more than £500,000 inheritance tax on her wealthy aunt's estate.

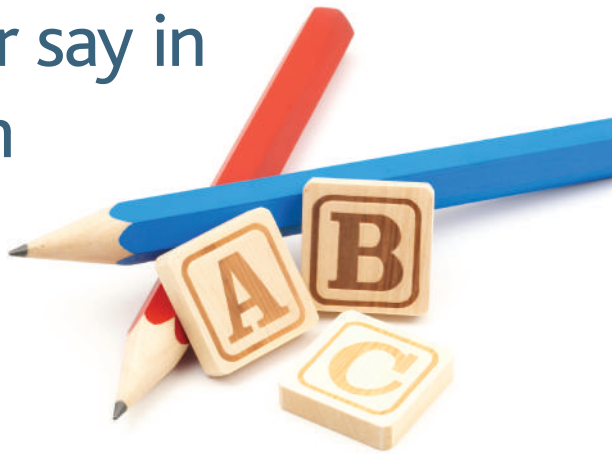
Theresa Bunn, 56, had told HM Revenue and Customs (HMRC) that the estate was worth around £285,000, which is below the threshold for paying inheritance tax.

However, HMRC officers investigated after they discovered that she had been financially supporting a friend and using her friend's bank accounts to hide money and evidence of her spending from her family.

Bunn admitted that the estate had actually been worth £1.5 million and also confessed that she had failed to declare substantial cash gifts from her aunt while she was alive.

To speak with a lawyer in our wills, trusts and probate team call 01753 279030 or email your enquiry to privateclient@bpcollins.co.uk

Children to have a greater say in disputes concerning them



News that children are to have a greater say in family court cases has been warmly welcomed by the family team, as Fran Hipperson, senior associate, explains.

Earlier this year, Justice Minister Simon Hughes announced that changes will be introduced to make it easier for children and young people to communicate their views in court proceedings. This will apply to any type of family case, whether it is a dispute about child arrangements following a separation or divorce, or if a child is being taken into care.

Addressing the Family Justice Young People's Board (FJYPB), the Minister said: "For too long, children and young people have struggled to have their voices heard during the family court process. Although they are often at the centre of proceedings, the views of children and how they feel are often not heard, with other people making vital decisions for them.

"Young people are some of the most vulnerable in society, and it is vitally important that we make sure they are at the heart of the family justice system."

He also announced the government's support for out of court dispute resolution services, such as family mediation, to be more child inclusive, something which resonates with Fran.

"Children have the right to be involved in decisions about their future," she said. "If arrangements are forced on children without giving them an opportunity to put their own views across, there can be resistance. Any change which allows children to have their voices heard and opinions taken into account in proceedings which profoundly affect them is a positive step."

Fran says she and her colleagues, who are all members of Resolution, which is committed to the constructive resolution of family disputes in a non-confrontational way, will invariably recommend mediation as a first step to resolving any dispute in relation to the appropriate arrangements for children.

As parents will need to communicate with each other in relation to their children, often for years to come, Fran is firmly of the view that being able to discuss and agree the appropriate arrangements at the outset sets the right tone for the future.

"Ideally, if both parents and children can sit down and talk with a mediator, it gives the children the chance to say what works for them," she continued. "For example, when talking about where they will be on which days of the week, many youngsters will have after school activities or sporting hobbies that they want to continue and they will have a view about the most suitable arrangement.

"Parents can become very absorbed in the dispute and lose focus on what's best for their child. Talking the situation over with an independent person, which could be their solicitor or a mediator with the whole family involved, often helps parents to look again at the arrangements that will work best. Sometimes, that can involve different arrangements for different children."

Last year, there were 90,000 children involved in new cases in the family courts. Under the new proposals, the Minister says that in particular those young people aged ten and above, will have a greater opportunity to have their voice heard.

Among the range of initiatives will be for children and young people to communicate with a judge either by letter or in pictures, and the Children and Families Court Advisory and Support Service (Cafcass) is also working on resources such as a "Court Gaming App" to make it easier for children to understand the court system.

The FJYPB is a group of 24 young people who promote the voices of children and young people in the family justice system.

Nineteen-year-old member Bethany Shepherd, who has been through the family justice system, said: "The voice of the child is important to me because it is vital to hear a child's opinion about their case when a decision is made that could ultimately affect them for the rest of their lives.

"I had to wait four years before my voice was heard and I was considered to be too young to know my own mind or listened to individually and simply just lumped together with my younger sister. This is definitely a step in the right direction for family justice."

The plans are expected to complement reforms to guidance on judges seeing children, which are being considered by a judge-led working group set up by the President of the Family Division, Sir James Munby.

To speak in confidence with a family lawyer about the welfare of your child during divorce, call 01753 279091 or email familylaw@bpcollins.co.uk

Ex-wife wins battle to claim money 20 years after divorce

In March, five Supreme Court judges unanimously agreed that an ex-wife should be allowed to pursue a financial claim against her multi-millionaire former husband, more than 20 years after they divorced and 30 years after their separation. Family lawyer and partner, Sue Andrews, says the case highlights the importance of ensuring that you obtain an order at the time of your divorce, even if there are no assets at that time.

The case involved Kathleen Wyatt and her former husband, Dale Vince, founder and sole shareholder of wind power giant Ecotricity Group, which has a turnover in excess of £66 million.

The couple met in their early 20s, married in December 1981 and had one son. Mr Vince also treated his wife's daughter from a previous relationship as a child of the family. They ceased living together in 1984 but did not divorce until 1992.

The two children lived with Ms Wyatt and it appears from the judgement that they lived close to, if not on, the poverty line. Mr Vince did not contribute towards their support, however the Supreme Court was satisfied that it was not until the final years of their son's minority that he was in a position to do so.

Ms Wyatt did not remarry (had she done so she could not have brought this application), but had formed a new relationship, which the Court of Appeal described as "tantamount to marriage", and had two more children with that partner, from whom she has since separated.

Mr Vince remarried and now lives with his second wife, their young son and his son from his marriage with Ms Wyatt.

In 2011, 27 years after their separation and about 20 years after their divorce, Ms Wyatt made an application for financial provision seeking a lump sum of £1.9m for her housing and income needs. She also applied and obtained financial provision from Mr Vince to fund her legal costs.

Mr Vince applied for her substantive application to be struck out (dismissed out of hand) and, when that failed, he successfully appealed to the Court of Appeal, which did strike out Ms Wyatt's application for financial provision, ordering her to repay part of the money received under the costs allowance order. Ms Wyatt then appealed to the Supreme Court, which decided that the Court of Appeal was wrong.

> "Whether future good fortune comes through working hard or inheritance; you need to ensure the legalities of the divorce are final and absolute, or you could find yourself open to claims at a later date."
>
> Sue Andrews

The matter determined by the Supreme Court was a technical one – whether the family procedure rules enabled Ms Wyatt's application to be struck out without full consideration of all the relevant circumstances.

It decided that the rules did not permit that, and found that Ms Wyatt had a "legally recognised application", which should be dealt with by a Judge in the Family Division of the High Court who would consider all of the relevant factors and circumstances.

The Supreme Court was not dealing with the merits of her application, which Lord Wilson pointed out "faces formidable difficulties", saying that an award of £1.9m is "out of the question".

He did however add that the application, in his opinion, "had a real prospect of comparatively modest success, perhaps of an order... to purchase a somewhat more comfortable, and mortgage-free, home for herself and her remaining dependants."

Taking into account the shortness of the marriage, the length of separation and the fact that Mr Vince's resources had been accumulated after the marriage, Sue says such comments are a surprise and also a warning.

"No-one can hope to know what a former spouse's financial situation will be in five years, let alone 20," says Sue. "Whether future good fortune comes through working hard and genius, inheritance or even winning the lottery; you need to ensure the legalities of the divorce are final and absolute, or you could find yourself open to claims at a later date.

"No matter what your circumstances when you divorce – even if you have no investments or property – you really should ensure that there is an order in place dealing with your and your former spouse's financial claims. This is something we always stress to all our clients – and with good reason."

To speak with Sue about financial matters during divorce, call 01753 279046 or email familylaw@bpcollins.co.uk

Over the past five years there has been a boom in the number of new businesses being founded in the UK, in 2014 there were more than 500,000. At the same time, there has been a surge in alternative sources of finance for early-stage start-ups for whom traditional bank finance is not necessarily the right option.

VentureFounders, an equity crowdfunding platform making angel style investing more affordable and accessible, is one such option. B P Collins' corporate team has been providing legal support and our editor caught up with co-founders Paul Moravek and James Codling to find out more.

A helping hand to launching a new venture

Why did you set VentureFounders up?

Our aim was to bring a curated offering of venture capital and angel style investments to investors in an efficient and cost-effective way. In addition, we wanted to make the process of raising capital and beyond more streamlined and efficient for businesses.

We offer a more bespoke and professional service, both to businesses looking for finance through crowdfunding, and to investors wanting to diversify their investment portfolio.

We have known each other for 15 years, having worked together at JP Morgan. We had a meeting of minds and scoped how we thought we could move the crowdfunding market on, making use of our backgrounds in venture capital and equity finance.

How is VentureFounders different?

It is much more than a crowdfunding platform. We offer long-term advisory services and partnership to the businesses seeking funding and provide access to a curated range of well-structured early stage and growth capital opportunities for investors.

We screen all of the investment opportunities on our platform, conducting detailed due diligence before presenting to our investor base. All of this vital information is presented on our website for investors to see.

We also believe that the role of crowdfunding shouldn't end just because the investment round has completed. We create long-lasting relationships with our investment businesses, checking in throughout their growth cycle, often taking a board observer seat and providing regular updates to shareholders and helping to maximise returns on their behalf.

What is your criteria for partnering with a business?

The team's extensive experience in corporate finance, private equity, deal structuring and start-ups means we are well placed to identify the businesses that meet our criteria, ie: those with potential for growth and profit, a sustainable competitive advantage, a clear path to commercialisation, a strong management team and viable monetisation options.

Our team is complemented by a senior advisor panel of industry leading experts and entrepreneurs, including Justin Urquhart Stewart, Founder of Seven Investment Management, and Martin McCourt, the ex CEO of Dyson.

Who is your target market?

Entrepreneurs – we're aimed at growing businesses that have already demonstrated early signs of strong potential. Typically between one and three-years-old, they will be up and running with a strong management team in place and a detailed business plan. The company must be UK-based and in terms of deal size, looking to raise between £250,000 and £2 million.

Investors – typically we work with sophisticated and high net worth investors who have already established a diverse portfolio of investments and are interested in angel style investments at a level that is much more accessible and affordable.

Our entry-level investment is £2,500. The reason that we set this minimum is that we believe this is an appropriate minimum threshold for more serious investors looking to self-select their own portfolio whilst also indicating a suitable level of risk appetite.

www.venturefounders.co.uk

Why entrepreneurs' relief matters

As Insight went to press, the general election was just days away. For entrepreneurs across the Thames Valley, one cloud on the horizon has been the possible phasing out or scaling back of entrepreneurs' relief that a change of government may bring. David Smellie, partner in the corporate and commercial team, makes the case for keeping it.

We're fortunate that our region is one of the most productive and successful in the UK. Organisations range from corporate giants to small businesses and start-ups, and behind many of them are the entrepreneurs and innovators who work hard to bring their ambitions to reality.

Entrepreneurs' relief means that those people, when they come to sell, can keep more of the wealth which they have created.

If such relief is extinguished or scaled back then why should entrepreneurs take the risks in growing smaller businesses? If there are no reliefs then why not just invest in blue chip investments?

In my view, any measures to reform or amend entrepreneurs' relief (other than changes designed to prevent abuse, which are welcome) would be unfortunate to say the least.

The rumours of possible changes began after the National Audit Office revealed late last year that the cost of the scheme had risen from £475 million in 2007-08 to £2.9 billion in 2013-14. Margaret Hodge, the Labour chair of the parliamentary public accounts committee, criticised HM Revenue & Customs for "failure to routinely monitor the costs" of entrepreneurs' relief and called for closer scrutiny to prevent fraud.

Her comments led to concerns that if Labour were to come to power then they may look to abolish or scale back the relief. Similarly, the Liberal Democrats have said they would look at "refocusing the entrepreneurs' relief to ensure it only helps genuine entrepreneurs and isn't used as a tax loophole for the super-rich".

In the Budget, Chancellor George Osborne did to some degree address the issue of fraud by introducing anti-avoidance provisions, but it seems quite clear that if there is a new political party in charge, much more change could be on the way.

Of course, the Treasury would no doubt love to gain a much larger proportion of that nearly £3bn, and there is an easy political justification – why should a "fat cat" making £10m of gains receive tax breaks – but if the relief is abolished, arguably this could put our entrepreneurial culture at risk.

Entrepreneurs' relief makes a real and valuable contribution in encouraging the growth of businesses; we should be looking at new ways to encourage the next generation of entrepreneurs to build their businesses, not looking to reduce the benefits they currently enjoy on a sale.

Entrepreneurs' Relief was introduced under a Labour government seven years ago and it now allows business owners to pay 10 per cent capital gains tax on the sale of qualifying assets, instead of the normal 18 per cent or 28 per cent. Individuals have a lifetime limit of £10m of taxable gains, so they can save £1.8m if they maximise this relief.

B P Collins LLP advised

Mobile Mini, Inc.

as it completed the purchase of the assets and operations of a container hire business from

Fraser Ltd

B P Collins LLP advised

Ice Energy Technologies Limited

in the buyout of 50.6% of its shares from

SIG Plc

a leading distributor of specialist building products in Europe

B P Collins LLP advised

the shareholders of

CentraStage Limited

on the sale of its entire share capital to

Autotask Holdings Inc.

Unlocking the key to success

Frederic always wanted to run his own business and he finally took the plunge in 2006. He hasn't looked back since, having established a successful London based self-storage operation together with a thriving removals business. Throughout the company's growth, B P Collins has remained a trusted and valued partner of Attic Self Storage.

As a new business, Frederic was keen to partner with a trusted law firm that could advise the company as it grew from a start-up right through to a mature business.

"We saw the value of developing a long-term relationship with a partner that could offer us ongoing advice and support as required and that's exactly what we've got. The main benefits of the service are their professionalism – they always get back to me quickly," he said.

"Furthermore, their experience across a huge range of issues is invaluable – I can ask for their help on a range of topics and there is always someone available in that field to speak with.

"It's fair to say that B P Collins provides a London service – in terms of professionalism and quality – but without the London price tag. Over the years we've used most of their in-house services including commercial property, residential property, property litigation, commercial litigation and employment."

Frederic continues, "It feels like a partnership with B P Collins because of the full service nature. We might not speak to them for six months but when we do, it feels like it was yesterday."

"From a start-up business during the financial crisis, through to now when we're looking to expand and grow even further, B P Collins has been a crucial part of the journey and we're glad to have them on board."

Frederic de Ryckman de Betz

Plaudits for award winning entrepreneurs

As category sponsors, B P Collins was delighted to present the award for Entrepreneur of the Year to Slough Aspire, a public-private sector led skills and training social enterprise, at this year's Slough Business Awards.

Left: Aspire employees celebrate their success

The awards celebrate the successes of the 4,000 businesses in Slough which concluded in a glitzy ceremony at the end of March at the Hilton T5 Hotel.

Aiming to reward businesses within the Slough, Windsor and Maidenhead area for their performance and entrepreneurship across twelve different categories, applications were open to 18,000+ businesses making competition stronger than ever.

Litigation partner, Nick Hallchurch presented the award to the team at Slough Aspire, commenting: "Awards such as these are important to B P Collins, not only helping to promote business investment in the local area but also to celebrate and recognise inspiring talent such as our winner."

Thinking about investing in buy-to-let?

Mike Wragg, an associate in the residential property team, looks at just some of the legal implications of the increasingly popular buy-to-let market.

Booked a cruise, splashed out on a new car, bought a buy-to-let property... thanks to the new regulations that made it easier to access a pension pot from 6 April, the possibilities are now endless for those who chose to spend and invest, rather than save, for their old age.

While the former two are unlikely to make too much of a dent in the bank balance, utilising your hard saved cash to purchase a house or flat for the purposes of renting it out and generating an income is a much more serious decision.

Thanks to the challenges that many families face in securing a mortgage these days, buy-to-let has become big business, and in 2014 the private rented sector made up 19 per cent of households in England.

Before you take the plunge however, there are some things you need to know:

Home sweet home

If you're buying to rent, look at the practicalities of the property and treat it as a business investment, rather than viewing it as you would your own home.

An empty property can make a huge dent in your profits. If tenants have a choice of similar properties, you want to ensure they choose yours so keep the décor plain and simple, repaint, replace and refurbish regularly.

Leasehold landlord

If you're buying a flat, it's going to be a leasehold property, so it's important to factor in who takes responsibility for looking after issues such as the cleaning, maintenance and supervision of community and parking areas.

For a not-so-small fee, management companies will employ managing agents to take care of these responsibilities, or you can become more involved in the decisions yourself. Owning a property in a block of flats usually allows you to become a director of the management company, but it can be both time-consuming and labour intensive.

Utilising your hard saved cash to purchase a house or flat for the purposes of renting it out and generating an income is a serious decision.

DIY tenants

Choosing your own tenants can be one way to ensure that only the favoured few make their home in your precious investment. Although choosing this approach might save on letting agent fees, it is not to be undertaken lightly.

Advertising the property, contacting references, doing credit and background checks, compiling inventories and ensuring the deposit is safeguarded in an appropriate tenancy deposit scheme are just some of a landlord's duties. And you have to understand the legalities of a landlord-tenant relationship – not for the faint-hearted.

"We all know of someone who has bought property and made a considerable profit over the years and, given that house prices in London and the south east are still seeing the strongest growth, entering the buy-to-let market can be a worthwhile investment," says Mike.

"To counter that however, you have to look at the risks, the fact that the costs of buying the property in the first place are not inconsiderable, and that in the majority of cases there will be ongoing fees in terms of agents and service charges.

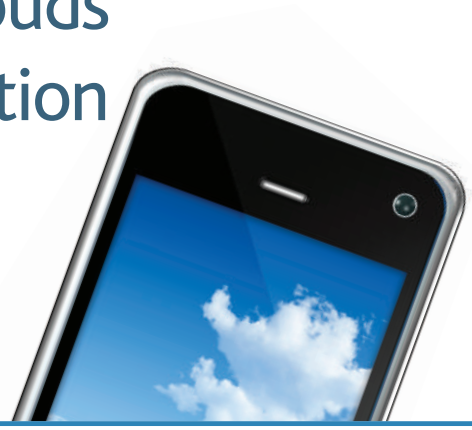
"In addition, such time as you sell the property, you will of course have to pay capital gains tax as it won't have been your primary residence."

If, after taking all those factors into consideration, you still want to pursue investing in a property, Mike recommends speaking to a specialist property lawyer and an independent financial adviser.

"This is unlikely to be a short term game and we know property prices can go down as well as up but, if you take a longer view, then becoming a buy-to-let landlord can reap rewards," he concluded.

To speak with a member of the real estate team about the legal implications of buy-to-let investments, call 01753 279021 or email resproperty@bpcollins.co.uk

Don't put your head in the clouds when it comes to data protection



Most of us will be familiar with the term Cloud Technology, even if many of us really don't know what it involves. The ability to store data in "the cloud" is big business but, as Simon Carroll, an associate in B P Collins' litigation and dispute resolution team, explains, before you entrust your precious data it pays to ask a few questions first.

"More and more people and businesses are being encouraged to use cloud-based storage. Not only is it more cost and space effective than having servers in your office, but it enables you to synchronise information and access it from anywhere," said Simon.

"While it might sound like a very simple solution, that data has to be stored somewhere and very often the 'cloud' is nothing more than rented storage space on a very large data farm, which can be overseas."

Simon warns that storing data in overseas locations can leave your information vulnerable to the laws of that country. As an example, he cites an ongoing court case between the FBI and Microsoft over the latter's refusal to automatically reveal information about a Hotmail account located outside the US.

Similarly, the Patriot Act allows the US authorities to seize any assets or information which could be seen as a threat to national security, something which could have unforeseen consequences for a UK business.

"If your information is being held on a server in the US which the US government decides to shut down because it needs to access data, then you have no way of controlling what happens next, which can potentially leave you and your business very exposed," he said.

Although the UK's Data Protection Act sets out obligations that data processors must adhere to, Simon says the law has been slow to keep up with the global explosion in data storage.

"The Information Commissioner's Office has the power to prosecute people and companies if they don't comply with data protection legislation. Although I think we will see more significant fines, there are a lot of practices which don't really fall under the legal parameters of the Act, especially when it comes to transferring data overseas and the manner in which that data is processed," he continued.

"People need to be aware that although it is sold as being a convenient solution, you cannot rely on the security of the cloud, as some businesses and celebrities have found out recently to their cost."

Simon recommends asking your cloud provider the following questions before signing a service agreement:

- Where will your data physically be held
- Can you physically access your data if you need to
- Does your data access depend on a third party

"If you are confident that cloud storage really suits your business needs and you can satisfy yourself with the answers to these questions, then the cloud – if not the sky – could be the limit. But if you're unsure, then it might be time to look for alternatives," he concluded.

"Wake-up call" for landlords: Deregulation Bill

The Deregulation Bill 2015 came into force on 26 March. Sarah McLoughlin, property litigation lawyer, highlights the implications for residential landlords and tenants.

- It is now unlawful for a deposit to be held otherwise than in accordance with an authorised tenancy deposit scheme. Failure to do so can mean being unable to issue a valid Section 21 possession notice. This applies to all deposits, no matter when they were paid, and could lead to a landlord being unable to evict a tenant and possibly become liable for a damages claim
- If a landlord received a deposit after 6 April 2007 and put this into an authorised scheme, then it will no longer be necessary to re-register the deposit at the end of each statutory term, as protection will be automatically renewed
- If a tenant complains about the state of repair, a landlord will no longer be able to serve a possession notice until the repairs issue is addressed, and he must respond to the complaint within 14 days. If no response is forthcoming, the local housing authority can also serve notice on the landlord

"This is quite a wake-up call for landlords as far as the need to address complaints is concerned," said Sarah. "And while the need to re-register deposits has been relaxed, they must ensure that tenants' deposits are held in compliance with an authorised tenancy deposit scheme or risk being unable to serve a possession notice.

"With all these changes, taking legal advice can help ensure there are no surprises for landlords or tenants alike."

Businesses warned over the IP implications of 3D printing

3D printing has taken the world by storm. The revolutionary new technology comes with promises of being able to print your own pair of shoes, a new car, or even your own kidney. At the 3D Print Show in London this May, a host of exhibits range from the creative arts to the construction industry and from museum dinosaurs to advances in dentistry.

Among those at the forefront of the 3D revolution is music industry giant and innovator Will.i.am. Last year, he became chief creative officer of 3D Systems, a 3D print company which, in partnership with Coca-Cola, has created the environmentally friendly Ekocycle Cube 3D printer and launched a range of recycled, luxury goods on sale at Harrods.

So far, so good – but closer to home, what are the legal implications of reproducing items with 3D printers?

Simon Carroll, an associate in B P Collins' litigation and dispute resolution team, comments that many people don't realise that while it might be very convenient to print a replacement "widget" for a piece of equipment, your very own Coke can, or even to design and print a personalised accessory for your smartphone, you need to be aware of potential copyright infringement and intellectual property (IP) rules.

"Thanks to the growth in availability of 3D printers and the prevalence of idea sharing over the internet, items that in the past you would go out and buy can now be designed and printed in 3D and provide a viable and cost effective alternative," said Simon.

"The beauty and relative affordability of 3D printing means you can access these facilities relatively easily and can even print things at home, so if you've lost a leg from your sofa or need a replacement widget for your washing machine, then you could have the technology right there to make a new one.

"The problem is that these items and the products they interact with will usually be protected by intellectual property rights and when you consider how much giant firms such as Google and Coca-Cola pay to develop and protect their brand images, it could have major consequences."

Simon explains that there are four main classes of IP:

- Copyright
- Design protection
- Patents
- Registered trademarks

These, in addition to the offence of passing-off, exist to ensure that no-one else can simply copy ideas or designs, for example, by printing a product in a distinctive shape, design or logo which has already been registered and passing it off as their own.

"There's no doubt IP problems are becoming more prevalent, both here and abroad" continued Simon. "Only last year Coca-Cola brought a significant lawsuit in Russia over copying of what's known here as 'getup' under the law of passing-off, when a soft drink manufacturer was found producing a bottle closely resembling the shape of Coca-Cola's 'contour bottle'.

"This sort of commercial response demonstrates the value companies place in their own brands and the steps they'll take to protect them. It's important that people take these issues seriously.

"If, as a print company, you are asked by a customer to 3D print a copy of an item, then it's extremely likely there will be an IP infringement involved, be it in the creation of a design or in the end result, and you need to be aware of the implications and risks involved."

Strictly speaking, he says, the print company needs to know who owns the design, should ask if the customer has permission to reproduce it, and request a copy of any licence agreement.

"The truth is that the law hasn't moved as quickly as the technology and each situation has to be treated on its own merit," concluded Simon.

"Undertaking your own due diligence and introducing preventative steps at an early stage to protect your business is much more cost effective than trying to do so retrospectively."

He recommends incorporating the following into businesses' trading terms:

- To minimise risk, proactively ask the customer to confirm they have the permission to reproduce or create the item.
- Ensure terms and conditions make it clear that IP responsibility lies with the customer.
- Ask the customer to indemnify your business against any costs arising from any prosecution.

And, for those customers tempted to print themselves a replica of the latest iPod, designer handbag or piece of artwork – be careful who you share it with.

To speak with Simon or a member of the technology and IP team about any of the issues raised here, call 01753 279037 or email technology@bpcollins.co.uk

Putting our hearts into Bucks

We are delighted to announce that B P Collins has teamed up with Buckinghamshire's Community Foundation Heart of Bucks (HoB), helping to ensure our support for charity and community groups will be shared across the county.

From 1 May, our charitable funds will go into an annual stewardship fund administered by HoB, which is committed to supporting and strengthening local communities by providing financial support to vital projects throughout Buckinghamshire.

Senior partner, Chris Hardy, said: "Supporting the local community has always been important to us and working in partnership with HoB will ensure that our donations are made in a fair, structured and measurable way.

"Our employees will help to decide which charities benefit and have the opportunity to take part in different initiatives, seeing how far their grants can go towards improving the lives of others."

Stronger communities, better futures and *safer lives* are the overriding objectives of the stewardship, each resonating with our own core charitable values, enabling us to gain first-hand understanding of local need through the funding applications received.

Since HoB started in 2000, hundreds of donors have used HoB to provide grants and loans totalling £5 million to 1,600 community groups in all parts of the county, including day centres, Dial-A-Ride car schemes, foodbanks, sports clubs and youth centres.

For further information on the partnership and the grant application process, visit the About Us section of our website or Heart of Bucks at www.heartofbucks.org

Stronger communities, better futures **and** ***safer lives*** **are the overriding objectives of the stewardship.**

RND2015

The Great B P Collins Bake Off once again saw staff rise to the occasion in support of Red Nose Day.

Eager amateur bakers added their creative flair to an assortment of sponges, tarts and cupcakes to ensure an array of tasty treats was available to buy throughout the day, helping to raise over £200 for the popular charity.

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