

# insight

The latest legal news and views from B P Collins LLP | Issue No. 26 September 2015

## Putting people first as new chief executive takes over



Putting people and relationships firmly at the heart of B P Collins is top of the agenda for new chief executive Ian Hopkins, who took over the role at the beginning of August.

An experienced lawyer and award-winning business leader, his mandate is for a clear focus on client care and quality of service, drawing on the firm's undoubted heritage and depth of expertise, while also looking to build for the future.

Speaking to Insight during only his second week in the "hot seat", Ian talked about his immediate plans and his long term vision.

bpcollins  
SOLICITORS

### Inside this edition



#### PRIVATE CLIENT

##### Will disputes

Estranged daughter wins will battle | page 3



#### PRIVATE CLIENT

##### Pilot trusts

New rules mean an end to inheritance tax advantages | page 4



#### REAL ESTATE

##### Budget impact

Changes for landlords and home owners | page 5



#### NEW FACES

##### Growing teams

Meet new members of staff making an impact | pages 6 and 7



#### LITIGATION

##### Director prosecutions

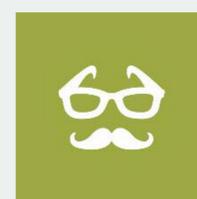
Companies House takes a tough line | page 8



#### EMPLOYMENT

##### Discrimination

Research suggests new mothers are being forced out of work | page 9



#### FAMILY

##### Divorce courts

The non-disclosure of assets comes under the spotlight | page 10

"My first goal has been to understand the business inside out, spending time with the different teams and getting to know them," he said. "I like to think I'm a genuine people person and for me, the chief executive's role is about leadership, enthusing and motivating people; you can't do that unless you develop relationships with them."

"Although it is early days and I haven't had the chance to meet any clients in the first two weeks, I very much enjoy the ambassadorial role that comes with being chief executive, so I'm looking forward to getting out and meeting both clients and fellow professionals."

"I know B P Collins is very strong in the local community and maintaining those roots is very important to me."

He believes the firm's greatest strengths lie in its specialist practices and the depth of expertise which come together under the B P Collins banner, and he has set himself the goal of building on that foundation in order to grow the practice to a £10 million turnover in the next three years.

"We have a tremendous heritage and a pedigree standard of client care, combined with a fantastic group of people and partners," he said.

"Now we need to make sure we have everything aligned so we can move forwards. I see that being largely through steady organic growth, but at the same time, if other opportunities come along then we will certainly look at them."

Ian says he is "passionate" about going the extra mile for clients and says the practice will be undertaking a series of exercises to help the team ensure it delivers an absolutely first rate service.

These include a mystery shopping exercise, together with gaining feedback from key client accounts, and a staff engagement survey.

"My mantra is that no matter what you do in the business, everyone has their part to play in our success and delivering excellent customer service," he continued.

"It's very important to have clarity in terms of understanding what you are trying to achieve and these programmes will help us define our strategy for moving the business forward."

Welcoming his appointment, senior partner, Chris Hardy, said: "Ian is a strategic thinker with impressive management skills. We are thrilled that he will be working hand-in-hand with our lawyers to drive the business forward and achieve the success it deserves."

Away from the office, Ian is a single handicap golfer and says he is looking forward to exploring the golf courses of South Buckinghamshire.

With a grown-up son and daughter, each weekend he heads back to the family home in South Wales, where he enjoys spending time with wife Christine and walking rescue dog Henry in the Welsh hills.



"My mantra is that no matter what you do in the business, everyone has their part to play in our success and delivering excellent customer service."

Ian Hopkins, chief executive

Prior to joining B P Collins, Ian spent five years as chief executive of Debenhams Ottaway in St Albans, leading the practice to the 2014 title of Medium to Large Business of the Year at the Inspiring Hertfordshire Awards.

That same year, he was a finalist in the St Albans Chamber of Commerce Business Leader of the Year Awards, and in both 2014 and 2013, the firm was a finalist in the STEP award for Regional Law Firm of the Year.

Having qualified as a solicitor in 1987, Ian spent his early career with a law firm in Wales, where he won the Leadership for Businesses with less than 250 employees, category in the Leading Wales Business Awards.

He has a Master's Degree in Business Administration and in 2014, gained a Level 7 qualification in Law Firm Risk and Compliance from the Institute of Leadership and Management.

A keen networker, he is also a member of the National Executive Committee of the Law Society Law Management Section.

# Estranged daughter wins £164,000 in will battle

The case of a woman who was awarded £164,000 from her late mother's estate, despite being cut out of the will in favour of three charities, was widely reported when the Court of Appeal made its decision in July. Craig Williams, partner and expert on inheritance disputes, examines the facts.



Heather Ilott and her mother, Melita Jackson, had been estranged for 26 years. When Ms Jackson died in 2004, she directed that the majority of her estate, worth around £486,000, be split between the RSPCA, the RSPB and the Blue Cross, leaving nothing to her only child.

In addition to her will, she left a carefully-drafted letter of wishes and instructions for her executors to defend any claim brought by her daughter on the estate.

Ms Ilott went to court and, although she had never been maintained by her mother since she left home, she made a claim under the Inheritance (Provision for Family and Dependents) Act 1975, founded largely on the fact that she and her family had a very low income.

In 2007, she was awarded £50,000, but appealed for more and, at the same time, the charities cross-appealed, arguing that she should not have received any money from the estate.

The case continued back and forth through the courts, with Ms Ilott claiming that the capital award from the first court of £50,000 would actually make her worse off by reducing her means-tested benefits. This was because the award was greater than the cap of £16,000, which is exempt from means-testing. The only exception to this is capital used to buy a home.

In March last year, she unsuccessfully challenged the amount of the award, but she then returned to the Court of Appeal and in July this year, succeeded in having the amount increased to £164,000, around a third of the value of the estate.

The appeal judges said the original award was not "reasonable" for her maintenance and ordered that she should receive £143,000 - enough to buy her house from the housing association that let it to her, and an additional award of an option for her to take a further £20,000 capital sum.

The judgment was structured in such a way to allow Ms Ilott to preserve her means-tested state benefits.

Lady Justice Arden said: "The appellant's resources, even with state benefits, are at such a basic level that they outweigh the importance that would normally be attached to the fact that the appellant is an adult child who had been living independently for so many years."

She dismissed the charities' objections to raising Ilott's award, because the deceased had no connection with them and so "they have not demonstrated need or expectation".

Craig said: "Many will say that this judgment, and the underlying ruling in the case, further erodes the myth of testamentary freedom.

"It could result in an increase in the number of Inheritance Act claims issued at court, with some potential claimants thinking that the door has been pushed wide open to challenges by disappointed beneficiaries, regardless of whether the deceased had assumed any financial responsibility for them in their lifetime."

Craig explained: "When making a will, the cautious testator will not only think about providing for their financial dependents but will also ask themselves: is my will *fair*? If its

**"When making a will, the cautious testator will ask themselves: is my will *fair*?"**

**Craig Williams**

provisions are unusual or out of the ordinary, prospective claimants, and the court, might take interest when considering whether those provisions are reasonable.

"However, the facts of every case are different and it will still be an uphill struggle for adult claimants, with no financial ties to the deceased, to successfully pursue a claim under the Act based solely on this decision."

Craig added: "This case also represents an interesting decision on how a court will take account of state benefit thresholds when calculating an award under the Act."

The three charities have said they may yet appeal to the Supreme Court.

To speak to Craig in confidence about an inheritance claim dispute call 01753 279037 or email your enquiry to [disputes@bpcollins.co.uk](mailto:disputes@bpcollins.co.uk)

# Private client practice welcomes new faces

During September, the firm welcomed several new solicitors to the private client practice. Associate Vicky Johnson, newly qualified Thomas Bird and Simon Hollis are working with a well-established team to support all clients' needs.



Vicky Johnson (*pictured above*), a private wealth specialist with City law firm experience, joined the team as an associate on 1 September and says she was attracted by B P Collins' reputation.

"The firm has such a good reputation for private client work in the Thames Valley, so it was an obvious choice," she said. "I also wanted to join somewhere where I can build a client base with strong local connections."

Vicky specialises in providing tax and estate planning advice, especially to those clients with assets in a number of different jurisdictions, something that partner Craig Williams believes will be a real asset.

"Vicky has an excellent track record and she brings with her a strong understanding of the issues involved in estate planning and trusts. We are certain that our clients will very quickly benefit from her knowledge and expertise in this very important area," he said.

Among the notable cases Vicky dealt with in her previous role with was the provision of ongoing advice to the trustees of a set of family trusts worth around £30 million in total, which held the family business following the death of the patriarch.

Vicky is well versed at advising on lifetime estate planning, including making gifts out of excess income, and the creation of nil rate band discretionary trusts to receive lifetime gifts. Among her cases, she prepared wills for clients worth around £500m, taking into account US CGT and gift taxes, and the US tax implications of the wife possibly renouncing her US citizenship.

Vicky lives in Beaconsfield with her husband and two young daughters.

## Thomas Bird



Thomas Bird began his training contract with B P Collins in September 2013, qualifying as a solicitor two years later on completion of his final seat with the private client practice. Thomas will continue to support the team with a range of estate planning, wills, powers of attorney and probate matters.

As well as being a valuable addition to the private client practice, Thomas is also well-respected for his enthusiastic approach to fundraising on behalf of the firm.

A keen sportsman, he led a team of staff members to success through the Tough Mudder course in May. At the time of going to press, Thomas was currently in training to complete his second Three Peaks Challenge in aid of Heart of Bucks on 12 September, alongside seven other members of staff.

## Simon Hollis



Simon Hollis is a very experienced private client solicitor, supporting the practice on an open ended basis. Simon has amassed a wealth of expertise over 25 years, having previously managed a successful private client team in Cumbria.

## New rules signal end to IHT advantages created by setting up multiple pilot trusts

Previously, as long as different pilot trusts were created on different days, they would each benefit from a separate nil rate band of £325,000. This is for the purpose of calculating ongoing inheritance tax charges, known as relevant property charges, and avoiding tax being charged on assets below this figure.

This compared with someone setting up multiple trusts on the same day, in which case they would be seen as related settlements, only qualifying for one nil rate band of £325,000 between them.

Under new "same day additions" legislation, where a person transfers assets into more than one trust on the same day, either during his lifetime or on his death and regardless of when the trusts were originally created, the single nil rate band will now apply. This removes the advantages of using multiple pilot trusts.

Anyone with a pilot trust is advised to take professional legal advice and, if necessary, update their will to ensure their estate is passed on as tax efficiently as possible.

The new rules do not apply to trusts set up before 10 December 2014, providing no further assets are added to them after that date.

They will also not apply to additions made to multiple pilot trusts by a will, where the testator dies before 6 April 2017. However, if the testator dies after 6 April 2017, then the new rules will come into force.

## Paul Lowery

Private client partner Paul Lowery will be leaving the practice in the autumn. We would like to thank Paul for his work with the firm in recent years and wish him the best for the future. Following his departure, Paul's ongoing client work will be transferred to fellow team members.

If you would like to meet any of the new or current private client solicitors to discuss a particular matter, your will or how recent changes in the law may affect your wealth planning arrangements, call 01753 279030 or email [privateclient@bpcollins.co.uk](mailto:privateclient@bpcollins.co.uk)

# Budget changes target property market

In his July budget, Chancellor George Osborne announced changes for landlords and home owners alike. Mike Wragg, an associate in the residential property team, looks at the likely impact of two of them:



## The buy-to-let market

From April 2017, tax relief on mortgage interest payments on residential property will be restricted to the basic rate of 20% tax. This will be phased in over four years and, because it will limit one of landlords' tax-deductible costs, it means they will make less profit margin from their rental properties.

Given that many people rent because they simply can't afford to get onto the property ladder, our concern is that private landlords will simply put up rental costs to make up the difference on the money they will lose.

We already know that property and rental prices in Buckinghamshire are among the highest outside the capital and there's no doubt that the number of investors in the buy-to-let market has increased.

In particular, some of these are using monies newly-released from their pension pots to buy property and secure a future income. Without the need to secure mortgage approval, their ability to move quickly on purchases means they are further squeezing the market and making it harder than ever for first time buyers to find suitable properties in the area.

## New IHT rules

Another major change from the Chancellor was the announcement that families will potentially be able to leave property worth up to £1 million to their children and direct descendants without an inheritance tax charge.

It means the introduction of a family home allowance of £175,000 will 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 new structure will be introduced in stages, beginning with a family home allowance of £100,000 in April 2017 and reaching £175,000 by April 2020.

This is good news for home owners in the £1m price bracket as it means they will now be able to pass on their primary residence to children or grandchildren without fear of having to pay inheritance tax.

For those with more expensive properties however, it's less good news as the tax relief tapers off as the value of a person's estate increases and gradually the allowance will be taken away from those with estates worth more than £2 million.

Measures are also due to be announced to help families to downsize, potentially releasing larger properties onto the market, while still protecting some of their investment for future generations. A consultation on these proposals is due to be published later this year.

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

## Gerrards Cross tops house price stats

According to recent statistics, Gerrards Cross has the most expensive postcode in Buckinghamshire, with average house prices of nearly £1 million.

Figures from the Land Registry show prices in the SL9 1 postcode increased by 8.3 per cent in 2014 compared with the previous year. And, says expert property lawyer Chris Hardy, there seems to be little sign of a slowdown.

"I think generally house prices will continue to go up, largely because of a shortage of supply," he said. "There was a slight lull earlier in the year as buyers were wary of what the election would deliver and whether the much talked about mansion tax would be introduced, but now all that pent-up activity has taken off again."

Popular with celebrities and with excellent transport links into London and beyond, Gerrards Cross is also proving a magnet for investors in the buy-to-let market who are now competing with first time buyers, another reason why Chris says prices are climbing fast.

"Properties such as one-bedroom flats literally have a waiting list for buyers and can sell within 24 hours," he continued.

"Of course, they are effectively cash buyers and don't need to raise a mortgage, so they can move quickly, unlike those who are having to meet tougher rules for obtaining a mortgage in order for their purchase to go ahead."



## Developing new relationships

Taking the reins as the firm's first head of business development and marketing is Gina Connell, a highly-experienced business development professional who spent the last six years in a client advisor role at specialist legal information provider LexisNexis.

She joined the team in May, and is enjoying being back in an in-house role with a key focus on improving business development and client relationship management.

"In my previous job I was working with 70 law firms on a regular basis, giving them advice but then having to step back," she said. "Now, as part of the in-house team, I'm involved in putting that advice into practice, using the latest technology to provide the analytics we need to make informed decisions and being part of the growth strategy moving forward."

Gina's role includes finding new and innovative ways to help grow the practice, especially as it looks towards its 50th anniversary in 2016, and she added: "It's clear that there is a really strong appetite for growth and a determination to continue delivering the best possible levels of service to our clients."

"We have a great platform from which to build and I'm looking forward to the future with real excitement."

Next year also marks a milestone for Gina herself, as she starts training for her first ever

mini triathlon to raise funds for the NAS (National Autistic Society).

Now married with two sons, she grew up on the east coast of Ireland, where she used to run competitively as a teenager, cycled to college and learnt to swim in the sea, and says the race will be "a great chance to bring three things I love back into my life."

The NAS is close to her heart as her second son is autistic, something she says has changed her outlook on life, and she is also a keen fundraiser for the charity, in addition to organising social events for her older son's rugby club.

Senior partner, Chris Hardy, said: "We're delighted to have welcomed Gina to our team. She brings great strengths, not only does she have extensive experience in business development and marketing in the legal sector; but she also understands how we can better use the technology and solutions available to grow our client base and continue to provide the highest levels of service that our clients demand."

Prior to joining LexisNexis, Gina was senior manager for business development and client relationship management at law firm Field Fisher Waterhouse LLP, and she has some 20 years' experience in the professional services arena.

### Sandy Patel



Another new face to the firm is Sandy Patel, an experienced lawyer who has joined the property litigation team as an associate.

With an in-depth knowledge of the commercial and residential markets, built up over a decade with an established London firm, Sandy's focus is on advising both landlords and tenants in relation to a wide variety of property disputes.

"In my previous role, the majority of my work involved advising landlords with large property portfolios on a variety of issues such as lease renewals and extensions, forfeiture and dilapidations," said Sandy.

"Since joining B P Collins, I've already learnt so much from working with Sarah and my goal now is to build on my experience and existing knowledge in order to ensure that I can offer the best possible service to future clients."

Sarah McLoughlin, senior associate in the litigation and dispute resolution team, said: "The property market is clearly enjoying a boom period and Sandy's arrival means we now have three dedicated property litigators."

"Both residential and commercial clients can be confident that we have the expertise in-house to help manage risk effectively and handle disputes quickly and cost-effectively, ensuring that successful deals are concluded as speedily as possible."

Sandy graduated with a MA (Hons) in Classics from Edinburgh University before completing the CPE and LPC at the College of Law, Bloomsbury. Having qualified in 2005, she says the arrival of her children meant she was keen to work for a firm closer to home and B P Collins' "good reputation" attracted her to the practice.

Married with a daughter aged four and a son of 18 months, Sandy was brought up in nearby Burnham. She now lives in Denham and says even prior to joining the firm she was a regular visitor to Gerrards Cross.

Away from work, her priority is spending time with her children and she loves travelling and cooking for friends.

# Mediation offering strengthened by industry standard accreditation

Two partners are celebrating their recent accreditation as trained mediators with the Centre for Effective Dispute Resolution (CEDR), internationally recognised as the standard of excellence.

Matthew Brandis and Craig Williams, both experienced litigation and dispute resolution lawyers, are now able to provide mediation services under the strict code of practice imposed by CEDR, further strengthening the firm's ability to handle all disputes including High Court and County Court claims.

Both completed a tuition and training programme covering the skills needed for effective mediation of commercial disputes.

Matthew and Craig join another B P Collins partner, Nick Hallchurch, already a CEDR-accredited mediator.

Commenting on the team's expanding expertise, Nick said: "It's important that we continue to offer clients a variety of ways of managing commercial conflict effectively and their accreditation further reassures clients of our ability in this area."

Craig explained that mediation is no longer perceived as being a weaker or lesser alternative to court proceedings, as the possible cost savings and prospect of a quicker resolution will often outweigh the attraction of having your day in court.

Craig went on to confirm that courts now encourage mediation as a way to resolve commercial disputes and that anyone who unreasonably refuses to go to mediation can suffer adverse costs consequences.



## Alison Taylor



The firm was delighted to announce Alison Taylor's appointment to partner earlier this year. An ex-City practitioner with in excess of 25 years' experience dealing with complex portfolio management, sales and acquisitions, Alison has been kept busy since her promotion in May.

Alison has taken a key role advising on commercial property matters for some of our familiar clients - her "extremely thorough" approach is appreciated by the likes of Biffa, Epilepsy Society and the Original Bowling Company.

As well as acting for many retail tenants, including well-known international brands, Alison also advises many small landlords, understanding the need to be nimble in today's market to ensure that deals they are able to negotiate are properly documented and finalised quickly.

Alison has publicly thrown down the gauntlet to clients, priding herself on her ability to provide solutions to the most complicated of property transactions. Out of work she enjoys developing new recipes for her family and friends to sample.

## Simon Carroll



Simon Carroll also rose up the ranks in May and was promoted to senior associate in the litigation and dispute resolution practice. Already a prolific contributor to Insight – see Simon's article on Companies House prosecutions on page 8 – he regularly comments on headline court cases, highlighting their impact to business owners.

Simon has clocked up many hours of court time and conducted a multi-day trial. As a result, he has achieved numerous wins and successful settlements on behalf of clients since joining the firm in 2012.

Simon previously advised in-house for an international FTSE listed company and regularly advises on disputes with an international element, alongside dealing with a variety of commercial, corporate and regulatory matters.

Before concluding his legal studies Simon worked as a ski instructor in Canada and spent time in Australia before returning to the UK. In his spare time, Simon enjoys skiing, all sports and practising foreign languages.

## Trainee qualifications

Three trainees completed their training contracts with the firm and qualified as associate solicitors at the beginning of September.

Rajiv Malhotra and Rebecca Mitchell qualified into the litigation and dispute resolution practice, bolstering the ten-strong team which is ranked top of the Chambers UK guide for commercial litigation.

Alongside Rajiv and Rebecca, Thomas Bird is an now associate solicitor in the private client practice (see page 4).

**'Strong and reliable'**  
B P Collins is a hit with trainees, thanks to its 'excellent reputation', 'wide variety' of work and good 'mix of private and commercial' cases.

The Lex 100 Student Guide

# Warning to directors failing to file company accounts

Directors are being warned that Companies House is increasingly taking a tougher line when it comes to pursuing prosecutions for the late filing of company accounts. Simon Carroll says many directors don't realise the potential personal impact of such action.

"There's no doubt that in the last six to 12 months we have begun to see increased prosecutorial activity by Companies House," he said. "These offences for late filing of accounts are not new, but we are seeing them being enforced to a much greater extent."

"Cases can be prosecuted in the Magistrate Court and, if convicted, defendants can face a fine of up to £5,000, as well as being left with a criminal record."

"That can cause real problems and be hugely prohibitive, particularly for those directors who travel regularly to some destinations, such as the US."

"Not only that, but from April this year, magistrates were given unlimited sentencing powers, so potential sentences could now be higher."

Section 441 of the Companies Act 2006 obliges companies to file accounts or reports for each financial year, and section 451 provides that if

they are not filed on time, every director in the company at the end of that period is treated as having committed a criminal offence.

Simon says directors cannot simply use the excuse that the work of submitting the accounts had been contracted out to external providers, such as an accountant; and says that showing accounts were prepared before the deadline is not enough to stop, or successfully defeat a prosecution.

"As a director, you need to be aware of the risks and take personal responsibility for making sure deadlines are met. You should also make sure your accountant understands the full extent of personal liability that you will be taking on if the accounts are filed late," he continued.

Simon says that if using an outside supplier it's important to ensure all the necessary information is provided in plenty of time. He recommends diarising relevant dates and, as the deadline approaches, making regular

checks to ensure the processes are well under way.

If the worst happens and the deadline has been missed, he says the prosecution team at Companies House will usually send warning letters pointing out the likelihood of prosecution.

"If there is a problem, it is still best to complete and submit the accounts as soon as possible," he concluded. "The offence is for late filing, so if you are prosecuted, unless you can satisfy the defence and show you took all reasonable steps to get the accounts submitted on time – which can be case and fact sensitive – it is likely that you will be found guilty and receive a fine and a criminal record."

To speak with Simon or a member of the litigation and dispute resolution team call 01753 279037 or email [disputes@bpcollins.co.uk](mailto:disputes@bpcollins.co.uk)

## B P Collins LLP advised

### Wrogel Management Limited

on a fundraising by way of equity and debt investments and its purchase of the entire issued share capital of

**the Hodgson & Hodgson group of companies,**

a leading supplier of thermal and acoustic insulation solutions

## B P Collins LLP advised

### White Light

in the acquisition of the entire share capital of

**Shock Solutions,**

expanding the company's offering of video, media and projection services for clients in the broadcast, event production and commercial markets

## B P Collins LLP advised

### Biffa Municipal Ltd

on its tender bid for waste collection and street cleaning services for

**Manchester City Council,**

successfully securing an eight year contract to provide both household collections and street cleansing services for over 514,000 Manchester residents

# Motherhood should not be bad for business

Discrimination is forcing thousands of new mothers out of work each year, new research suggests. Employment lawyer Kathryn Fielder looks at the rights of pregnant employees and those on maternity leave, and advises how employers can avoid discrimination claims.



In a recent poll of more than 3,200 women across the UK, the Equality and Human Rights Commission claims one in 10 females are dismissed, made redundant, or treated so poorly they quit their job after having a child.

As an employer it can be difficult to balance the needs of your business with the rights of employees and this is particularly true in relation to pregnancy and maternity rights.

## Different types of discrimination

Pregnancy and maternity discrimination can occur where an employer:

- treats a female job applicant or employee unfavourably because of her pregnancy or a pregnancy-related illness; or
- treats a female employee unfavourably because she is on statutory maternity leave, wants to take leave, or has taken leave.

Examples of unfavourable treatment include refusing time off for antenatal care, demotion, dismissal because of pregnancy, failing to give a woman on maternity leave a pay rise, taking pregnancy-related sickness into account, and the denial of training or promotion opportunities because of pregnancy or maternity leave.

A failure to carry out a risk assessment and alter working conditions or hours of work to avoid a significant risk to the health and safety of new or expectant mothers, or their babies, may also be unlawful pregnancy and maternity discrimination.

If a woman's job is potentially made redundant whilst she is on maternity leave, she has a priority right to be offered any suitable

alternative vacancy with the employer. A failure to do this could be discriminatory.

An employee who is pregnant or on maternity leave may also have a claim for indirect sex discrimination, sexual harassment or victimisation.

## Who is protected?

A wide range of individuals are protected from discrimination, including job applicants, employees, apprentices, partners, agency workers and some self-employed contractors. Although the right to statutory maternity leave and pay only applies to employees, a much larger group of individuals benefit from the right not to suffer discrimination at work because of pregnancy or maternity leave.

For example, rejecting a job applicant because she is pregnant or replacing an agency worker because she is off sick with pre-eclampsia could be discrimination. In the case of employees, the protection starts from day one of employment.

## Employment tribunal claims

If a job applicant, worker or employee believes she has suffered pregnancy or maternity discrimination, she can bring a claim in the employment tribunal. If her claim is successful, the tribunal can award unlimited compensation, which includes a sum for injury to feelings. In some cases, the tribunal may also make a declaration as to the party's rights or make a recommendation.

In order for the woman to be able to bring a claim, her employer must know, believe or suspect that she is pregnant.

## How to avoid claims

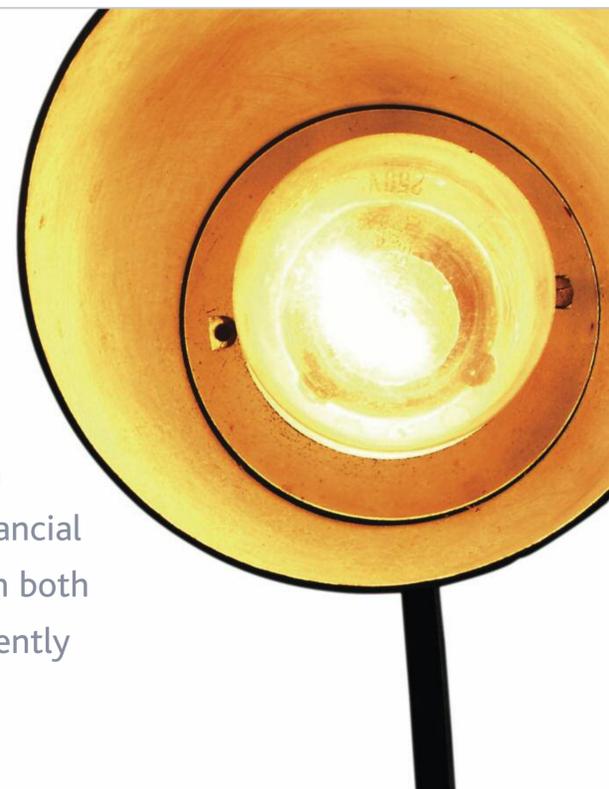
Here are our top six tips for avoiding claims for pregnancy and maternity discrimination:

1. Carry out a risk assessment as soon as you know a worker is pregnant and make changes to her working conditions, role or hours as necessary. Keep it under review as the pregnancy progresses.
2. Take any complaints about bullying or harassment seriously and carry out a full investigation.
3. Ensure your employment policies clearly state that you give paid time off for antenatal appointments and you do not expect a woman to make up the time.
4. Take legal advice before taking disciplinary action against a woman who is pregnant, especially if it is for a pregnancy-related illness.
5. Review your redundancy selection procedure. If the role of a pregnant woman or woman on maternity leave is potentially made redundant, ensure you offer her any alternative vacancies and consult with her fully, even if she is not at work.
6. Keep-up-to-date with entitlements to family friendly leave and pay. Update your employment policies to cover flexible working requests and shared parental leave.

To speak with a member of the employment law team about discrimination in the workplace, call 01753 279029 or email [employmentlaw@bpcollins.co.uk](mailto:employmentlaw@bpcollins.co.uk)

# Dishonesty in divorce under the spotlight

In the next few weeks, the Supreme Court is due to rule on two cases involving wives Alison Sharland and Varsha Gohil who, claiming that their husbands were dishonest about their financial resources during divorce proceedings, are seeking to have earlier financial orders set aside. In both cases the orders were at first set aside by the High Court, but these decisions were subsequently reversed by the Court of Appeal. Sue Andrews, family law partner, explains more.



Ms Sharland accepted a £10 million settlement from her former husband when they divorced after 17 years of marriage in 2012. This took into account the value of his company, said to be between £31m and £47m. Ms Sharland later discovered that her former husband had concealed negotiations about the possible flotation of his company, which put its value at over £650m. She sought to set aside the order because of his fraudulent non-disclosure.

The flotation did not proceed and Mr Sharland has dismissed the £650m figure as "pure conjecture". The Court of Appeal decided that the financial order should not be set aside because, although the non-disclosure was material, the new information would not lead the court to make a "significantly different" order.

Sue believes if the flotation had happened the High Court's decision would have stood, because a sale at the higher figure would "very probably" have changed the original outcome.

In 2004, Ms Gohil agreed a settlement with her former husband, which gave her £270,000 and a car. This she accepted, despite her stated belief that Mr Gohil held funds in a Swiss bank; owned a number of properties both here and in India; had company and trust interests, all of which he denied.

Their agreement records that Ms Gohil believed her husband had not provided full and frank disclosure of his financial circumstances, but that she was nevertheless prepared to compromise her financial claims.

In 2006, Ms Gohil applied to have the order set aside, saying her former husband's lifestyle was much higher than would be possible from the

income and assets disclosed. Numerous hearings followed, but before a decision could be made, Mr Gohil was convicted of money laundering and received a 10 year jail sentence. His alleged funds, subject to confiscation proceedings, were estimated at around £35m.

## "The Supreme Court must send a clear message that dishonest spouses will face sanctions."

### Sue Andrews

#### The issue

"A key question is whether, if a party has knowingly provided incomplete or inaccurate disclosure, an agreement or order based on that information should automatically be set aside," said Sue.

"Many of us might think the answer is an obvious yes, bearing in mind there is a strict obligation or duty on both parties in a divorce to provide full, clear and unambiguous disclosure.

"However, there are two equally important but conflicting principles: the overriding objective to achieve fairness; and the need for finality of proceedings."

Although both husbands had provided incorrect disclosure, she says the facts not disclosed were unlikely to change the original settlement. Ms Gohil accepts that monies

confiscated by the Crown could not form part of the resources to be determined by the family court; while in Ms Sharland's case the flotation didn't happen.

Sue would therefore be surprised if the Supreme Court finds in their favour, but says it must send a clear message that dishonest spouses will face sanctions.

"This may not be the answer that my moral compass says is right, but I suspect it will be the pragmatic outcome," she said.

"There are already remedies where someone is in contempt and these should be used more robustly. For example, the court could impose larger fines and jail sentences, or a spouse could be ordered to pay their former partner's costs."

#### The debate

So, where does that leave a spouse who wants to conclude financial negotiations but believes their former husband or wife is lying?

"Any agreement should clearly record that it was reached on the basis of the disclosure provided to that date and, should that disclosure prove to be incorrect, that the order should automatically be set aside," advises Sue. "This would shift the onus from the 'innocent spouse' having to take steps to set aside an order where they have done nothing wrong. That said, the 'innocent spouse' could opt to stand by the original agreement, rather than incur the stress and hassle of further negotiations."

To speak with Sue about financial matters during divorce, call 01753 279046 or email [familylaw@bpcollins.co.uk](mailto:familylaw@bpcollins.co.uk)



## Japan talks trade at round table event

The Thames Valley region is open for business. That was the message from the latest Thames Valley Chamber of Commerce round table event - held in association with B P Collins - to Japanese businesses aiming to expand in the region or invest for the first time in Buckinghamshire, Berkshire or Oxfordshire.

Japan already makes a huge contribution to the UK economy. Today there are 1,800 Japanese businesses in the UK and 160,000 jobs which rely on Japanese foreign investment. The presence at the event of Buckinghamshire's Kawasaki Motors, Oxfordshire's Amano Enzyme Europe and Berkshire's Panasonic, Sharp and Konami emphasised Japan's strong links to the local economy.

Diane Yarrow, corporate partner, said: "Some international businesses take a seemingly easy

approach to investment, not looking beyond the capital city. But many are missing a golden opportunity if they overlook the Thames Valley region, which has world class expertise in software and analytics and holds the trump card of having Heathrow on its doorstep as well as first class transport links to London.

"It has many parallels with Japan, particularly Osaka, where in both regions electronics and energy storage industries are growing rapidly, which means more jobs for the region. Thames Valley is already top in the UK for technology jobs and this is set to grow following investment from Japan.

"Although there may be some legal and corporate differences between our two countries, Japan is still Britain's second largest foreign investor. Legal teams, like B P Collins, have already shown that by providing counsel to Japanese businesses, these differences can be overcome, and we can simplify the process from first entering the country to eventually setting up shop in the region."

## Wendy's win makes waves at Pride of Bucks

A delighted Wendy Zakrzewski from Chesham Leisure Centre won the title of Employee of the Year, sponsored by B P Collins, at the Pride of Bucks Awards held in beautiful sunshine on 29 June at Stoke Park.

The winners were announced at a fabulous lunch attended by a host of local celebrities and more than 300 guests, all eager to see who would walk away with titles including Entrepreneur of the Year, Young Carer of the Year, 999 Service Personnel and Child of Courage.

The awards, now in their third year and run by the Buckinghamshire Advertiser and Examiner in partnership with other local organisations, celebrate the volunteers, community champions and businesses across the county.

Celebrating with Wendy after her win were her family and friends, along with B P Collins staff and family law partner Sue Andrews, who presented Wendy with her award.



Above: Shy Wendy, top left, celebrates with celebrities including Suzanne Shaw, Antony Costa and other winners. © Photographybybernard.com

## Sharron supports sports stars of the future

Promising sports stars Amy Jones and Georgie Whitaker each received a career boost in the form of a £750 grant from the Bucks SportsAid Foundation.

Sixteen-year-old squash player Amy and hockey player Georgie, 17, were presented with their awards by Olympic medallist Sharron Davies MBE, at a special Bucks Sporting Lunch Club event at Dorney Lake earlier this year.

The sell-out event attracted an audience of 150 local business people who heard Sharron talk about her career and the role that SportsAid plays in helping up-and-coming sports stars of the future. It also raised £4,450 for SportsAid to help fund future grants.

Sharron spoke of the pride she had felt after receiving a SportsAid grant at a young age. "SportsAid is so valuable, not just in supporting families with funding, but it shows girls like Amy and Georgie that we believe in them and it helps give them the incentive to train a little bit harder," she said.



The Lunch Club is supported by local businesses as part of a fundraising programme to help young sports stars of the future with training, equipment and travelling expenses. The next lunch takes place on 13 November and welcomes legendary rugby commentator Ian Robertson as guest speaker. For information on the Club and how to purchase tickets visit [www.buckssportinglunchclub.co.uk](http://www.buckssportinglunchclub.co.uk)

# £7,300

## fundraising total by students at Strictly Come Dancing inspired event



From tasty recipes to strictly strutting their stuff with dances from around the world – talented girls from Beaconsfield High School put on a great show at their International Student Fundraising Day in July.

B P Collins was lead sponsor, giving family partner Sue Andrews the chance to indulge her own passion for dancing as one of a team of judges for the modern dance competition final, sitting alongside TV presenter and Strictly Come Dancing contestant Gabby Logan.

The Superchef competition attracted a fine array of delicious cakes and mouth-watering

recipes, while a host of stalls and activities helped ensure there was plenty of opportunity to add to the fundraising total.

Staff members and school alumnae, Sharon Heselton, Rebecca Mitchell and Samantha Howe, hosted a raffle to help further boost donations.

"Being part of the local community is really important to us and to see the enthusiasm and huge amount of effort which went into organising the day by pupils, staff and parents alike, was extremely gratifying," said Samantha.

B P Collins LLP | Insight Issue 26 | September 2015

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

This document is for information only and is believed to be correct at the date of publication. Articles have been reduced where necessary and are of a general nature, therefore should not be relied on as a substitute for specific legal advice. Client names have been published only where they are in the public domain. No action should be taken without speaking to your legal adviser. © 2015 B P Collins LLP



@bpcollinslaw

[www.bpcollins.co.uk](http://www.bpcollins.co.uk)

for daily legal news, commentary, blogs and events