

# insight

By your  
side in  
achieving  
success

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Exciting changes are afoot at B P Collins. From May 2017, Simon Deans will become the firm's new senior partner following Chris Hardy's decision to step down from the role.

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# From painting a B P Collins garage door to becoming its latest senior partner, Insight charts the rise of Simon Deans.



From May 2017, Simon Deans will become B P Collins’ new senior partner following Chris Hardy’s decision to step down from the role. Alex Zachary, corporate and commercial partner, will replace Simon as practice group leader. All will continue to provide advice to help clients achieve success - a role they are keen to retain.

There are many strands to being a senior partner. Externally, Simon will assume an ambassadorial role for the firm in order to raise awareness of its expertise and specialisms amongst businesses and the local community. Internally it involves building the consensus needed to bring about positive change and helping the management team to achieve its goals.

Simon explains the type of senior partner he aims to be:

"I am keen to make myself available across the whole firm - to listen to partners and staff and discuss the issues they are passionate about. In the increasingly pressurised environment in which the firm operates, we have to constantly challenge ourselves to do things better and to behave consistently in a way that demonstrates our integrity, commitment, friendliness and teamwork, which is at the core of what B P Collins is all about."

He has had a long connection to the firm which has helped to prepare him for the role:

"My mother was a teacher and my father a political journalist, but being a typical independent teenager in the 1980s, I wanted to do something completely different. So at 16, I wrote to 15 law firms in Buckinghamshire

asking for work experience.

"B P Collins was the only one to take me on from my A Levels through to the end of my degree. I kept coming back during the holidays to gain more experience across a range of different practice areas and trying to be helpful when the firm was consolidating its many offices and moving from being a typical high street generalist practice into the specialised legal advisory business it is today.

"The team must have admired my persistence - and painting skills - as the firm took me on as a trainee solicitor after graduating from The University of Birmingham."

Having left the firm for two years around the turn of the century, Simon returned in 2002, becoming a partner in 2005 and heading up the corporate and commercial practice group from 2008.

"I've seen life at B P Collins through many different roles. The firm has invested in me over a long period and with a lot of strategic experience under my belt having been on the board since 2009, it's now the right time to step up and help steer the firm through its next chapter."

Despite the challenging economic and political landscape, Simon believes that the role of senior partner, alongside the management team, will help the firm to adapt and grow.

"No one really knows what Brexit will deliver for the UK just yet

and the pound is fluctuating, helping some of our clients and hindering others. We are also very aware of the challenges and opportunities that lie ahead with Artificial Intelligence in the legal sector.

"Ultimately ours is a people business and it depends on us building and maintaining strong relationships with our clients and business partners. However, we are battling against increasing compliance and administrative burdens and since I specialise in the technology sector, I want to ensure that B P Collins embraces new technology to enhance our communications with our clients and to enable our staff to spend more of their time with their clients providing the great advice we are known for.

"But it doesn't stop there. Clients don't simply expect an exemplary knowledge of legislation from their lawyer.

"Corporate clients need to know that their lawyers have commercial acumen and understand their business inside out. Or from an individual or family perspective, our clients need to know that we can help them make the changes they want in their life and can protect their wealth.

"A seamless service for clients is also important. Internally, I think we can improve our team work and interaction to ensure that clients receive all the advice they require in a consistent manner."

Despite a busy few months ahead, Simon remains committed to advising clients directly so he doesn't lose touch with what they need and the marketplace they operate in, although he will have to reduce the amount of hands-on document drafting and processing he's previously dealt with.

"I am very lucky to be part of such a strong and well-regarded team who will enable me to perform my new role."



"I've seen life at B P Collins through many different roles. It's now the right time to step up and help steer the firm through its next chapter."

Simon adds:

"I will also retain my role as a Heart of Bucks trustee - a charity I support passionately. Having grown up in Buckinghamshire and lived here for most of my life, it's a great county to live in, but there are people who need assistance and this is a tangible way of giving something back."

After three years as senior partner and 34 years at the firm, Chris Hardy has left an indelible impression on the firm which Simon acknowledges.

"Our firm is a great place to work and and Chris has been instrumental in achieving this. Calm under pressure and personable with not one ounce of self-importance - I wish him every success in his new role as a consultant for the firm and look forward to him passing the baton to me."

Even though Simon will be leading the next stage of B P Collins' race to the top, he feels he has a "strong team", who will work together to grow the firm and meet B P Collins clients' ever-changing needs.

"I am very lucky to be part of such a strong team who will enable me to perform my new role."



# Tenants gain right to make energy efficiency improvements

Many residential tenants have gained the right to ask for their landlord’s consent to make energy efficiency improvements to their rented home, under Part 2 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.



The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 set out precise rules for tenants who want to take advantage of the scheme, and for their landlords who must comply with strict time limits when responding. Senior associate Mike Wragg outlines the rights and obligations for landlords and tenants.

### Rights for tenants

A tenant who wants to make use of the scheme must first check that both their tenancy and their proposed improvements are within its scope.

With a few exceptions, the regulations apply to tenants of private rented property under assured and assured shorthold tenancies, Rent Act-regulated tenancies and some agricultural tenancies.

Owners of leasehold properties who sublet to others on these types of tenancies can also take advantage of the scheme.

The 45 energy efficiency improvements covered by the scheme are set out in a list that originally formed the basis of the government’s Green Deal. They cover a wide range of works and installations, from heat pumps to insulation.

The tenant must show how the improvements will be funded; the landlord is not expected to pay for them. Tenants may also pay for all or part of the work themselves, although it is not clear what evidence landlords can require to satisfy themselves that the tenant has sufficient funds.

### Obligations for landlords

The obligations on landlords who receive tenant requests are complex and involve strict time limits so landlords will need to take legal advice early on in the process. A landlord who receives a valid request from their tenant under the scheme must not unreasonably refuse consent. This also applies to the superior landlord of a leaseholder who receives a valid request from their own tenant. Fines can apply if you fail to comply with the regulations.

The regulations set out a number of situations in which it would be reasonable to refuse consent, including two exemptions:

- If the improvement the tenant wants to make requires third-party consent, such as planning permission, the landlord may refuse if it is not possible to get that consent. But the landlords must make reasonable efforts to get any such consent if they receive a tenant request, and they cannot pass on any costs incurred in doing so to the tenant, even if consent is refused.
- If the landlord can show that the work would reduce the market value of the property by more than five per cent, it is reasonable to refuse consent. They will need an independent valuation, the cost of which cannot be recovered from the tenant.

If a landlord does not want their tenant to make improvements but cannot find a reasonable ground to refuse consent, the landlord can either agree to carry out the works or they can make a counter-proposal for different energy efficiency improvements that would deliver substantially the same energy bill

savings as the improvements proposed by the tenant. The tenant must then confirm whether or not they consent to the landlord’s counter-proposal; and the tenant’s original request is no longer valid.

Retaining control of the work may appeal to landlords but the improvements must be done within six months, which may be difficult to achieve.

The other practical issue is how a landlord can be sure the tenant will pay for work the landlord carries out under a counter-proposal, where there is no third-party funding. The regulations are silent on this and this could lead to a landlord and tenant dispute. The landlord may also incur irrecoverable costs, for example, in getting planning permission or the consent of a superior landlord.

With landlords now facing the prospect of managing work being done to their properties by a number of different tenants, while complying with detailed rules and some very tight timetables, it’s important to get advice early on from your solicitor on the rights of both parties.

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

# America still is open for business

John Hendricks, a resource of B P Collins, is a founder of HendricksMurry, P.C., a boutique law firm in San Francisco, California, where he practices business and employment law. In the first of a two-part article series, John provides tips for UK-based businesses that are considering, scaling up, organizing and funding businesses in the United States.



Recent events in Britain and America raise significant questions for businesses operating across international borders.

But our two countries’ historic closeness remains an asset and should be leveraged favorably by business.

In California, Governor Jerry Brown last month noted that the state is “the sixth most powerful economy in the world” behind the UK and that “one out of every eight Americans lives ... here”. 27 percent of California residents were born outside the United States, so it continues welcoming business from all around the world.

**“In America, many fundamental and practical issues for businesses are governed and administered by laws set at the individual state level - these laws are not expected to change.”**

John Hendricks,  
HendricksMurry, P.C.

### Business entity

Upon deciding to establish United States operations, the first important client decision is selecting a business entity appropriate for their needs. This typically means a corporation or a limited liability company (LLC).

Forming a corporation, a business entity analogous to a UK private limited company (limited by shares), requires capitalization by shareholders, designation of officers, drafting bylaws, identification of a registered agent, filing articles (or a certificate) of incorporation with a state’s secretary of state, and payment of fees. Thereafter, governing a corporation requires greater formality than an LLC, but a corporation may offer overseas owners tax and other benefits, although these are outside the scope of this article.

Alternatively, an LLC offers greater flexibility for management and operations, and is governed by a highly tailorable Operating Agreement agreed to by the company’s organizers. An LLC can provide desirable tax benefits to LLC owners, known as members, if they are based in the US. But an LLC potentially increases the tax burden on non-US members.

### Jurisdiction

The second important client decision is selecting an appropriate state jurisdiction where a new company will be formed. Sometimes a desire to establish a physical presence in a particular city implies forming the business in the corresponding state, but this is not always the best option.

Rather, it may be desirable to incorporate in a more management-friendly state like Delaware, and then qualify the out-of-state entity to do business in California by registering it with the California Secretary of State as a “foreign” corporation. This choice will be driven by specific client needs – for example, avoiding greater protection for minority shareholders provided by cumulative voting and other

measures under California law. Delaware courts also enjoy the reputation of being more adept at handling corporate disputes.

Generally a “foreign” corporation is entitled to apply the laws of its home state to governing its internal affairs, but in some situations – for example, where substantial voting stock is owned by California residents and its business is conducted in California – this right can be overcome by California Corporations Code § 2115. Thus, even a Delaware corporation may be subject to pro-shareholder California laws, depending on factors particular to its business.

### Third parties

The type of business entity and jurisdiction where it is formed also may be influenced by the needs or expectations of third parties. For example, Silicon Valley venture capital firms are widely known to favor investing in technology startups formed as Delaware corporations. To make an informed decision, clients therefore are encouraged to engage local contacts and resources for networking and professional advice at the earliest stages.

Also, if the new business will use local workers, it is important to plan and lay critical groundwork before they start. Cultural norms and complex employment laws vary substantially between Britain and America.

This topic will be addressed in the next edition of Insight.

For corporate and commercial advice, call 01753 279022 or email [commercial@bpcollins.co.uk](mailto:commercial@bpcollins.co.uk)



# Brexit: Reassuring and retaining your international workforce

If your employees are temporary UK residents and are non-EU citizens, sponsors could consider an application for an 'Indefinite Leave to Remain'. And if your employee is an EU national, it may be prudent to consider Permanent Residency for them. It must be noted that the application process is hugely complex and takes a large chunk of time and resources, particularly if employers have a large number of international workers. For example, with non-EU nationals not all visas attract the right to Indefinite Leave to Remain and this needs to be checked at the outset.

In the case of Permanent Residency application, for every EU national who chooses to apply, there is an 80 page application form backed up by lengthy guidance notes which, coupled with the need to gather various documentation, takes on average around two days to complete. So if a company has 15 EU employees, it could take up to a month to submit all their applications.

B P Collins can take the headache away by completing the application for you or reviewing before it is submitted as it is absolutely vital all information is accurate. Otherwise, if a key document is not submitted, the application will be unsuccessful, adding further uncertainty.

Successful businesses have to adapt constantly to meet customer demand, to trade in increasingly competitive marketplaces, address skills shortages or fluctuating economies. The likely changes to immigration rules is the next big challenge looming and we can help you with that challenge. By helping to protect your international workforce, you can reassure your staff and enable you and your team to concentrate on the opportunities and challenges that Brexit may bring.

To speak with Chris Brazier about your international workforce, call 01753 279029 or email [employmentlaw@bpcollins.co.uk](mailto:employmentlaw@bpcollins.co.uk)

We are navigating uncharted territory since the Vote Leave camp won the referendum in June 2016. Since then, business groups have been seeking clarity around how its members will be affected, particularly about the status of international employees working in the UK. Despite constant hypotheses from the media and learning of the government's priorities in a Brexit white paper in February, there will be no further clarity until negotiations begin.

And that's the catch. Although many EU leaders favour such an agreement which protects EU nationals in the UK and British expats in the EU, Theresa May has said that there were a couple who do not - so there is a distinct possibility that the rules for migrant workers in the UK will be subject to a host of changes until the negotiations between the UK and EU conclude in two years' time.

Despite the uncertainty about the future and an inclination by some to 'wait and see', there are steps that companies can take to retain and reassure their international workforce, allowing for future planning and the growth of their business.

In anticipation of an overhaul of the UK's immigration system, it is best to get ahead of the surge of applications from a large number of the 2.5 million plus EU nationals living in the UK. Already, according to the Home Office, it will take around six months (which we believe to be underestimating the true timeframe) to obtain confirmation from the Home Office on the immigration status of international, and particularly EU, workers and this is likely to take a lot longer if they have to deal with a surge in the number of applications. Employers and their employees should therefore consider the options available to them to formalise immigration status.

## RETAIN YOUR INTERNATIONAL WORKFORCE

Free workshop  
Thursday 11 May | 8am – 10am

B P Collins  
Collins House, 32-38 Station Road  
Gerrards Cross, SL9 8EL

B P Collins' business immigration team will be hosting a free workshop that details **sponsor obligations** and cuts through a myriad of **home office regulations** to provide a **comprehensive and accessible guide** on protecting your EU and non-EU employees from changes to the immigration system.

This workshop is suitable for HR managers and in-house counsel.

Breakfast will be provided.

To sign-up call 01753 279029 or visit:  
[www.bpcollins.co.uk/events](http://www.bpcollins.co.uk/events)  
or email  
[employmentlaw@bpcollins.co.uk](mailto:employmentlaw@bpcollins.co.uk).



Many businesses need HR support or advice but either don't have the resource or don't have it at the right level to meet their needs. Our HR2Help service can provide the HR resource you need on your terms - whenever and wherever you need it.

HR2Help's consultants have years of experience and expertise across a range of industry sectors and can step in to ease the load or manage your HR service entirely.

For smaller companies without a permanent HR presence, we can provide top flight HR consultants at a fraction of the cost of employing someone with their skills and experience.

Larger businesses with HR staff may call on us to provide additional assistance with short term projects or strategic assistance in handling more complex issues, knowing that when the need arises, they have a direct line to the employment team at B P Collins to ensure a seamless process.

- Consultants can assist with:
- Recruitment
  - Pay reviews
  - Disciplinary and grievance investigations
  - Grievance hearings
  - Internal appeals
  - Redundancy consultations
  - Appraisals
  - Protected conversations
  - Mediations

Our team will match the most appropriate consultant to meet your needs and respond rapidly to provide HR solutions that are stress free, value for money and, above all, cost effective.

Frances Barnes from Certsure LLP, which provides professional services and certification for the building sector, used HR2Help recently and adds:

"Its consultants assisted us with a complex and long running disciplinary and grievance matter, which had been time consuming and had involved all members of the internal HR team.

"The option to outsource this matter to an experienced HR professional who worked closely with B P Collins made perfect sense and worked seamlessly."

To find out more, contact Jo Davis by emailing [jo.davis@bpcollins.co.uk](mailto:jo.davis@bpcollins.co.uk) or calling 01753 279029.



# Waste legislation post-Brexit: what can we expect?

B P Collins has recently assisted in the preparation of a paper dealing with the possible consequences and implications for laws relating to the waste sector arising from the UK leaving the European Union.



## Business *alloys*: Continental and B P Collins

With Continental Tyre Group’s constant strive for technological excellence and innovation, it expects an equally high performance from its UK law firm. According to its Managing Director, the company’s executive team consistently receives a seamless service from several of B P Collins’ practices including corporate and commercial, dispute resolution, property and employment.



Having advised companies in the waste sector for over 30 years, the B P Collins environment team were delighted when the Environment Industries Commission’s (EIC) Waste and Resource Management Working Group asked us to assist with the report.

B P Collins’ input was very much a cross practice effort with particular involvement from the corporate and commercial and real estate practices, which make up our environment team

During the years that we have been advising clients in this sector, there have been many changes in the legislative landscape, however, generally speaking, the direction of travel was well signposted and people knew the likely impact of these changes.

When the referendum result in June 2016 indicated that the UK would leave the European Union, that degree of certainty was lost.

Regardless of what happens after Article 50 is triggered, this paper serves a useful role in providing the waste management industry with a useful overview of the important EU legislation which has shaped UK’s current legislation and provides recommendations on the UK’s waste management legislation and policies moving forward.

The government has already agreed that at the point which the UK leaves the EU, all EU legislation which has not already been transposed into UK law will be transferred to UK statute.

However once the UK is free to decide the future of its waste policy and laws, the paper’s

recommendations to the government are as follows:

- *Consult on new recycling targets in England for 2025: EU waste policy targets have provided investor confidence in the sector and driven investment decisions for many years. Post Brexit existing or future targets will not apply in the UK. We need to develop new UK targets that reflect stakeholder consensus on what is ambitious but credible than that they are world leading. Brexit is also an opportunity to consider tonnage targets could be made more nuanced by incorporating measures focused on wider environmental goals such as CO2 impacts.*
- *Retain the EU definition of waste: Despite its flaws, the UK industry has got used to working with the existing definition and a wholesale change post Brexit could create years of confusion and legal uncertainty.*
- *Review the Separate Collection provisions of the revised Waste Framework Directive: The current wording has led to too much ambiguity. A more pragmatic approach, focused on clear operational guidelines that enable high quality recycle to be delivered should be developed instead.*
- *The concept of Best Overall Environmental Option should be used alongside the waste hierarchy: Under EU law the waste hierarchy (reduce, reuse, recycle, energy from waste, landfill) has legal force. The hierarchy should remain as an overall framework for policy making, but it should also be recognised that there may be cases, such as with some types of*

*hazardous waste, where options such as disposal in a regulated hazardous landfill may be the best option.*

- *Circular economy approaches should be prioritised around a resources strategy linked to the government sectors prioritised in the new industrial strategies.*
- *EU Ecodesign regulations that derive from the forthcoming EU Circular Economy Package should be adopted by the UK to help facilitate UK-EU trade as well as for environmental reasons*
- *Regulatory commonality across the nations/regions of the UK should be encouraged even while targets and policy initiatives may diverge.*

In this brave new world to come, there will be challenges ahead, but undoubtedly there will also be huge opportunities. We hope that the paper will initiate further discussions between the waste sector and the UK government.

We’d like to thank the companies that were involved in this report. Being at the coalface every day, their contribution and insight was absolutely vital in helping to shape the future direction of this industry.

To receive a copy of the full report, email [corienne.kilgannon@bpcollins.co.uk](mailto:corienne.kilgannon@bpcollins.co.uk)

Continental Tyre Group Ltd in Uxbridge is responsible for the supply of car, van, truck and commercial vehicle tyres across the UK and Republic of Ireland.

The UK company is part of the Continental group whose holding company Continental AG is based in Hanover, Germany. Established in 1871, Continental is one of the world’s leading tyre manufacturers, evidenced by the fact that almost every third car in Europe is delivered with tyres from the company.

Speaking about the company’s relationship with B P Collins, David Smith, Managing Director of Continental Tyre Group Ltd, explains:

“B P Collins has advised the company for over 30 years because of its commitment to communicating clearly with us, its lawyers’ complete understanding of our business, culture and commercial requirements and their responsiveness and accessibility whenever we’ve needed advice – all of which is offered at a fair rate.

“B P Collins’ lawyers also appreciate our sense of urgency for some matters and will drop everything to advise and develop innovative solutions whenever we need them. And the fact that we can call on a range of practices at the same time ensures we receive a seamless service.”

B P Collins’ practices have provided counsel on a range of different matters throughout its service for the company. The corporate and commercial team has advised on supply agreements with major car manufacturers to

distribute tyres across Europe and on key sponsorship contracts with the Football Association – it’s hard to miss Continental Tyres’ notable presence at major football grounds during the European Football Championships and World Cup. B P Collins’ property team also acted on the original lease of its new head office and, more recently, its lease renewal.

Matthew Owen, Head of Finance and IT, adds:

“I very much regard Victoria Holland as a trusted advisor on all corporate and commercial issues. It’s reassuring to know that I have her support, as and when I need it, on contract reviews through to much more complex matters.

“Recently B P Collins helped us to reorganise our flagship tyre distribution centre in Warwickshire, which receives thousands of tyres from manufacturing bases across the globe every year and distributes to many garages and larger tyre centres across the UK and Ireland. This was a huge task, which involved B P Collins’ expertise and commercial acumen across a range of practice areas. With all contracts and agreements now finalised, the centre is going from strength to strength.”

This particular matter required senior advice from across the firm to ensure the restructure was a success.

A change of service provider required employment advice from Jo Davis, partner in the employment team, as there were nearly 200 employees to consider. The distribution centre needed to terminate its current lease

**“The fact that we can call on a range of practices at the same time ensures we receive a seamless service.”**

**David Smith,**  
Continental Tyre Group Ltd

and take out another under new terms and conditions which required the expertise of Alison Taylor in the commercial property team. Nick Hallchurch, dispute resolution partner and Victoria Holland, corporate and commercial partner, both advised on Continental Tyre Group’s complex contract negotiations.

Victoria Holland concludes:

“We are very pleased to have helped streamline Continental’s warehousing and distribution practices, to further cement its position as one of UK’s leading tyre distribution centres in the UK and Ireland.

“Our firm’s long standing relationship with Continental over 30 years means that we have built up considerable industry knowledge as well as solid relationships within our respective teams, making us best placed to provide practical and technical advice to Continental as and when needed.”

# What to expect when you decide to divorce

The first few months of the year can bring significant change for a lot of people. Some might decide that they want to change jobs, move house, travel more or perhaps embark on a new hobby. For others, their thoughts may be of more life changing things and after deciding that their marriage is no longer working, a move towards divorce and separation may become likely.



Sue Andrews advises on what can happen when you contact a specialist divorce lawyer, and provides reassurance to those thinking about taking such a step.

### First meeting

At a first meeting the solicitor will obtain factual information such as length of your relationship, details about your children, your income and other resources. They can only assess the situation realistically if you are completely honest from the outset. If you hold something back it could delay resolution and hike up legal fees.

Your solicitor should also take time to find out about your anxieties and goals as well as what has brought you to your decision. This will establish whether the marriage has broken down irretrievably and if divorce is what you really want.

On the basis of that information your lawyer should be able to advise you about the way forward and likely outcome, applying relevant legislation, judicial precedents and guidance to your circumstances.

### Counselling

Depending on the circumstances, your lawyer may suggest counselling. It can help a couple identify whether the difficulties in the marriage are irreparable or not.

Communication is key so even if the final decision is to end the marriage it is more likely to mean that the "formal bits" can be dealt with amicably.

**"Good judgement, empathy and the ability to think strategically and 'fight your corner' are the key attributes of a good divorce lawyer."**

### Sue Andrews

#### Costs

The costs of undefended divorce proceedings up to obtaining decree absolute are likely to be in the region of £1,000 to £2,000 plus VAT and fees to the court of currently £550. This does not include dealing with financial matters, the costs of which will depend on a number of factors including whether you are able to agree matters at an early stage and whether separate court proceedings are necessary

If the resolution involves going to court involving a number of hearings, possibly also with experts, then your costs will be high and will reflect the complexity of the issues and the work that needs to be done.

This could be avoided through a negotiated settlement where you and your spouse are in control.

#### Children

Telling children about your decision to separate is never going to be easy but try to tell them

together and reassure them that although they may not see both of you each day, they will continue to have a relationship with you both.

It is often thought that mothers have an automatic right to have the children live with them, however that is not correct.

Both parents have equal status, however this should not be about either of you but about the children and their right to have a relationship with you both.

Circumstances such as where the parents work and live or the flexibility of each parent will of course come into play, but your aim should be to achieve a fair agreement and one that works for your children.

If a child wants to stay with a particular parent and is able to make rational and informed decisions, then those feelings will be taken into account. The older the child is, the greater emphasis their views will be given, and if they are 15 years or over it is extremely unlikely that if there was a dispute, a court would make a decision against their wishes unless, of course, it is very clearly not in their best interests.

Sue concludes: "The divorce process doesn't have to be stressful.

"If both partners receive realistic and pragmatic advice from their lawyers and can talk honestly with each other, a satisfactory settlement could be achieved, giving people the chance to move on with their lives."

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

# Protect your beautiful things

Senior associate Lucy Fisher advises on how changes to the law could affect your existing wills and trusts, and also helps you to decide what the best options are for you and your family.



### What is a trust?

A trust is a legal mechanism, which can be created during your lifetime or by your will, whereby you place assets under the control of the trustees for the benefit of a beneficiary or class of beneficiaries. It enables you to give away assets but retain some control.

**"Trusts offer flexibility and wealth protection as well as other benefits which cannot be achieved by a simple gift."**

### Lucy Fisher

#### Will trusts

Every individual has an ordinary nil rate band allowance; this is the amount they can leave on their death free of tax and is currently £325,000.

Prior to 2007, if a married couple left their estate to each other then on the second death they would have 'lost' one of the allowances so it became common to insert 'nil-rate band discretionary trust' into the wills to overcome this.

The concept of the transferable nil rate band was introduced in October 2007. The effect is that the first spouse's unused allowance can be claimed against the survivor's nil rate band which could be a combined tax free allowance of £650,000.

This ability to transfer the unused allowance makes matters more straightforward; however there are still advantages for such trusts, for example:

- For care fees planning, if the nil rate band passes to a trust from which the surviving spouse can benefit, then neither the income nor the capital of the trust will be taken into account by the local authority.
- To provide protection against insolvency or divorce of the intended beneficiaries.
- If there is a chance that the surviving spouse might remarry.
- To reduce the estate of the surviving spouse to below £2 million.

#### Residential nil rate band

In April 2017, the new residential nil rate band will be introduced subject to certain conditions. It will eventually be worth £175,000 per person in 2020. Added to the £325,000, this means a new allowance for property owners of £500,000 – or £1m for couples. To qualify the following conditions must be met:

- The deceased must own a property (subject to downsizing provisions)
- The property must be inherited by direct descendants
- The deceased's estate must be below £2 million in value otherwise the allowance is tapered.

On the face of it, anyone who has a discretionary trust in their will could lose the additional allowance because the potential beneficiaries are not deemed to 'inherit', but

with the right advice this can be overcome.

It is worth noting that interest in possession trusts, disabled persons trusts, bereaved minor's trusts and Age 18 – 25 trusts will qualify.

The nil rate band discretionary trusts can be useful where a combined estate is over £2 million. For example if a couple's combined estate is worth £2.3 million, and on the first death the nil rate band is left on trust then on the second death the estate is reduced to below £2 million and the allowance would be available.

#### Tax

The tax treatment of trusts is complex. If for example you were creating a lifetime trust and the value of the trust fund exceeds £325,000 there could be an immediate charge to inheritance tax. There are also on-going tax implications every ten years and when funds exit the trust. While the taxation can be cumbersome, that should not be a reason to avoid trusts as the flexibility and protection that they afford can outweigh the tax implications.

The law and tax regulations are frequently changing and if you already have a will or trust created then we would advise you to review them at least every five years. If you create a will with B P Collins' wills, trusts and probate team, they offer a complimentary review service for peace of mind.

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



# A funding scheme with heart

Helping to create stronger communities, better futures and safer lives in Buckinghamshire



Towards the end of last year, B P Collins launched a new funding scheme with the Heart of Bucks, to support local charities and community projects which best reflect the CSR values of the firm and deliver a positive social impact to local communities.

B P Collins has had a charitable fund with Heart of Bucks since 2015, but this is the first time it has opened up the fund to nominations to empower local organisations and charities to be in with a chance of securing financial aid. The awards - totalling £10,000 - centred on three main themes: building stronger communities, providing better futures and creating safer lives.

Simon Deans, who is a Heart of Bucks trustee, said:

"In the past we have helped causes which don't grab the headlines but make such a vital and, at times, life-saving contribution to the local community.

"Our law firm is passionate about helping those in need in Buckinghamshire and the nominations system was a tangible way of doing that."

Over one hundred applications were made, which B P Collins and Heart of Bucks shortlisted to the five charities that best reflected the firm's values. Representatives from each charity subsequently met with staff to discuss in detail the vital work they do and the impact the funding could make. Staff then voted to determine how much funding each charity would receive.

April Benson from Aylesbury's Women Aid's 'Helping Hands', which scooped the top donation, said:

"We were delighted to secure the grant of £3000 from B P Collins. The money will go towards our children's programme offered to primary schools that increases children's understanding of feeling safe and helps them to learn behaviours that will contribute to a safe environment.

"All the organisations and participants who attended the event were genuinely interested in each charity, and we feel very privileged to have won the majority of the vote."

Aylesbury Women's Aid 'Helping Hands' which helps women who have experienced domestic violence and their children received £3000



Youth Concern in Aylesbury which transforms the lives of 500 disadvantaged, vulnerable young people every year received £2500

Lindengate, Wendover, which helps people with mental health problems through the power of the natural environment received £2500

Young Enterprise, Bucks, which helps young people to develop key skills for the future received £1000

Sea Cadets, Marlow, which supports the development of young people and offers training programmes in leadership, teamwork and a range of physical activities received £1000

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