

in sight

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SOLICITORS



Trends: Freelancing | Modern parenting | Mythbusters: protecting your home from an intruder | How to sell your business

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ISSUE
By your side
 every step of the way



Dear readers,

Welcome to Insight.

There has been a huge amount of pride within B P Collins since it won the 'Workplace Wellbeing' award at the Thames Valley Chamber of Commerce's Business Awards and received national and international recognition for its Corporate Social Responsibility (CSR) activity.

A couple of years ago, we made the decision to move from a series of tactical interventions around our staff's health and wellbeing to ensuring that this became a strategic priority in the boardroom. With our mental health, fitness and CSR programmes in place, independent research has found that our staff feel valued and appreciate how the firm takes the duty of care of its employees very seriously.

You may wonder how the commitment to our staff is connected to the service that we provide to you, our client. But the key element of a truly client centric law firm is the engagement of the people that work there. And our approach seems to be working. This year, B P Collins achieved top-ranking results from legal directories Chambers UK and Legal 500, after receiving independent feedback, which said that we work closely with our clients to help them achieve their goals.

Our commitment to staff wellbeing has also enabled us to recruit talented new lawyers and I'd like to welcome Jemimah Fleet, a specialist in surrogacy and fertility law, to the family practice; James Constable, an associate and experienced solicitor-advocate in the dispute resolution team; Natalie Boorer, senior associate in the wills, trusts and probate team and John Hargrave, our new Chief Operating Officer, who will oversee the firm's headquarters move to new premises in Gerrards Cross in 2020. I look forward to showing you around in the next edition.

We hope that you find the advice in this edition of Insight useful. If you'd like to offer any feedback, we'd love to hear from you.

Thank you,



SIMON DEANS, SENIOR PARTNER

INSIGHT

“Millennials born in the 80s and 90s have driven significant growth in the freelance sector. The number of freelancers aged **26-29** has risen by **66%** since 2008.”

SOURCE: OPEN ACCESS GOVERNMENT



“There are approximately **2 million** self-employed professionals working in the UK out of which, approximately **1.77 million** are working as full-time contractors. Between 2008 – 2016, the number of self-employed professionals in the UK increased by **43%** approximately.”

SOURCE: ITCONTRACTORSUK.COM



“The number of female freelancers has grown by **55%** since **2008**. New mothers choosing to take up freelance work rather than return to full-time office employment post-baby has shot up by **79%**. Comparatively, the number of men freelancing has grown by **36%** in the same time frame.”

SOURCE: OPEN ACCESS GOVERNMENT

Want to understand more about how the rules between contractors and businesses will change in April 2020? Read our article on pg 14 & 15



How to sell your business

IN THE FINAL STAGE OF OUR BUSINESS LIFECYCLE SERIES, INSIGHT FOCUSES ON MATTERS TO CONSIDER WHEN PLANNING TO SELL YOUR COMPANY. B P COLLINS' CROSS PRACTICE TEAM OF CORPORATE AND COMMERCIAL, EMPLOYMENT AND COMMERCIAL PROPERTY LAWYERS OFFER KEY ADVICE.

DAVID SMELLIE PARTNER, CORPORATE AND COMMERCIAL

It's important to find any skeletons before putting your company up for sale. They could range from legal, financial, property or HR issues – anything that might lead a buyer to place a lower value on your company than what you wish to sell it for.

It will be exciting for you if you've chosen to sell your business but, your employees might feel differently when there is so much uncertainty about their future. It is essential to keep them happy and motivated before and during the sale process. One way to do this is through adopting employee share schemes. These could also help retain employees whose contribution is essential to the success of the business. However, for these to be tax effective you need to think about implementing these a long time before the sale.

The anticipation of having a large sum of money through the sale of your business is soon eradicated at the thought of a large tax bill at the end. Sellers must ensure that the long period of preparation leading up to the sale is used to put proper tax strategies in place to maximise the tax savings that may be available at sale time.

Engaging an expert to find a buyer for your business and to look after the sale can be hugely helpful, as they will ensure that offers are received from as wide a pool of potential buyers as possible and so maximise the value that you will receive.

You will need to decide how to conduct the sale process and an expert, if appointed, can assist with this. You can either go down the route of an information memorandum (followed by a request to make best and final offers) or make discrete approaches. An information memorandum should include the key parts of your business such as the ownership and management structure, trading performance, key growth opportunities, competitive advantage and market data.

It is important to establish the heads of terms as early as possible once a buyer has been identified, as these will set expectations and record the core elements of the deal. The heads of terms will outline the purchase price (and how it will be paid), the structure of the deal, and incorporate some expectations about the legal terms that will apply to the deal.

You and the buyer will also have to agree whether the transaction will be a share sale or an asset sale. A share sale means the buyer takes on the company as a whole, as a continuing legal entity, with all the employees, contracts, leases and assets and liabilities. An asset sale allows the buyer to choose which assets they will take on and leave behind certain liabilities.

"DUE DILIGENCE WILL BE ESSENTIAL FOR A POTENTIAL BUYER OF YOUR BUSINESS...[BUT] FOR A SELLER, IT'S RATHER LIKE INVITING A STRANGER TO ASK QUESTIONS ABOUT YOUR PRIVATE LIFE"

When you're selling the business, this doesn't automatically mean that you must leave. An agreement needs to be reached with the buyer on whether you leave immediately or remain, possibly in a different capacity, for an agreed amount of time. It is quite common for sellers to remain in place for some time to facilitate the handover.

Due diligence will also be essential for a potential buyer of your business, as it helps them to understand exactly what they're taking on, including areas of concern where assurances or indemnities could be required and ensures the company's value is accurate. For a seller, it is rather like inviting a stranger into your home and allowing them to ask questions about your private life.

When you first start thinking about selling your business, the dream is often to retire with the proceeds. Sale transactions, however, aren't always that straightforward and Deferred Consideration or Earn Outs will often form part of the consideration; so you might have to wait a while longer for that beach house in Barbados. Deferred Consideration is where a fixed sale price, that has been agreed but part of the payment, is deferred until a specified later date and it will be paid, provided that the conditions have been met. Earn Outs will vary for each deal, but fundamentally, the price that a seller ultimately will receive is dependent on the company's future performance with some payable upfront and the remainder due further down the line, based on that future performance.

MARIA MOWBERRY PARTNER, PROPERTY

When looking to sell your business and the property it operates from, it's important to consider whether you'll sell them together or separately. Finding a buyer who is interested in both may be more difficult, but this situation could enable you to boost the value of your sale.

As mentioned previously, it may be the case that the assets have to be broken up and the individually sold off. This could mean you having to find another buyer for the property or you could decide to retain it and rent it to another party to generate an income stream.

It's important to remember that the sale of your property can be completed prior to the sale of the business. This frees up your time to focus on selling your actual business.

If you've rented the commercial property, you will need to ask your landlord for consent before you can assign your lease. If consent is given and the new buyer is willing to take on the lease, you may still have a responsibility as an 'assignor' to guarantee the incoming tenant's performance of their lease obligations.

Aside from seeking the advice of a lawyer, it's vital to speak to an accountant early on so they can advise on the tax implications of any deal.

"IF YOU'VE RENTED THE COMMERCIAL PROPERTY, YOU WILL NEED TO ASK YOUR LANDLORD FOR CONSENT BEFORE YOU CAN ASSIGN YOUR LEASE"

KATHRYN FIELDER SENIOR ASSOCIATE, EMPLOYMENT

Selling your business may cause unease among your workforce, so it's vital to keep your sale plans confidential until you are confident the deal is done. However, make sure you leave enough time to comply with requisite consultation obligations under the Transfer of Undertakings Regulations (TUPE), which protect employees' rights when the organisation or service they work for transfers to a new employer.

Take the opportunity to also review contracts to ensure they are up to date and ensure consistency of terms. This will help with the due diligence process. It's also vital that you have up to date ID for all employees to ensure proof of their right to work.

It's also important to review any current grievances and tribunal claims to see if they can be settled before putting the company up for sale as disputes can be off putting. If unionised, check that any collective agreements have been incorporated into the contracts.

If the buyer does not want to take on all the employees, avoid accepting dismissal obligations or providing indemnities which will impose obligations on you.

Don't forget...

SELLING YOUR COMPANY OFTEN TAKES MORE TIME AND IS MORE EMOTIONALLY DRAINING THAN YOU MIGHT THINK – ENSURE THAT THE BUSINESS IS NOT AFFECTED BY YOU FOCUSING ON THE SALE ESPECIALLY IF THERE IS AN EARN OUT.

ENSURE THAT YOU GET ON WITH THE PROFESSIONAL TEAM YOU APPOINT – YOU MAY BE SPENDING A LOT OF TIME WITH THEM AND YOU WILL CERTAINLY BE ON THE PHONE TO THEM A LOT.

NORMALLY YOU ONLY GET ONE CHANCE SO ENSURE THAT IT IS DONE CORRECTLY.

For any advice on selling your business, contact our expert teams.

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

Are you protecting your share of the property?

Find out more on pg 12.



DUAL Asset Underwriting

From starting out to scaling up



Andrew Hillier is a Chartered Surveyor with over 25 years' experience in the property industry. He has applied his property and business experience to a wide variety of entrepreneurial companies.

His first professional property consultancy in the golf course market has been followed by several ventures in property development, consultancy, IT and renewable energy sectors. In 2013 he co-founded DUAL Asset Underwriting which has rapidly become the leading global insurer for legal indemnities.

In the latest interview for Insight's 'How I did it' series, Andrew talks about the best part of building his own business, his relationship with B P Collins and his company's plans for future.

How did you get to where you are today – what qualities do you think helped you to achieve this?

To be honest I wasn't very academic but I was very determined and wanted to make money by running my own businesses. I also firmly believe that if you do something you enjoy and are passionate about it, that goes a long way to achieving success.

What's the best part of your job?

I'm really enjoying building a successful business with a young and very driven team. Together we are ensuring that they will have a strong, stable business to continue on in the future.

How have you contributed to Dual Asset Underwriting's success?

I was lucky enough to co found the business with my friend Phillip Oldcorn. It was our combined knowledge and experience of the M&A and property markets that enabled us to be successful. B P Collins has advised us all the way, from setting up the company at the beginning to our shareholder agreement with our joint venture partner and to various share sales that have occurred over the past five years.

What are the company's plans for the future?

We are currently the global leader in providing title and legal indemnity insurance in over 40 countries worldwide. We also have ambitious plans to grow our business in the US, Japan and Australasia.

What challenges does your sector face and how can they be overcome?

Brexit has been our biggest challenge in the last 24 months, as it forced us to set up in Dublin and Warsaw in case pass porting ended. A slowdown in the global M&A market would also be difficult but our wide geographical spread means we should be resilient to a slowdown in any one area.

If you weren't the Executive Chairman of Dual Asset Underwriting - what would you be doing?

Property and deal making are my passions, so the most likely scenario would be running a property company.



B P Collin's corporate and commercial practice has advised Andrew Hillier and Dual Asset for a number of years. For any advice contact our expert teams on 01753 889995 or email enquiries@bpcollins.co.uk

Creating a family with B P Collins



JEMIMAH FLEET, A SOLICITOR SPECIALISING IN SURROGACY AND FERTILITY LAW, HAS RECENTLY JOINED B P COLLINS' FAMILY TEAM FOLLOWING THREE YEARS WORKING AT A FIRM WELL KNOWN FOR ITS EXPERTISE IN THIS AREA. INSIGHT DELVES DEEPER INTO HER WORK AND FINDS OUT WHY SHE BELIEVES REFORM IN SURROGACY LAWS IS MUCH NEEDED.

Prospective parents now have the option to create a family through various options such as surrogacy, adoption, donor conception and fertility treatment. Have you seen a positive shift in people's attitudes towards 'modern parenting'?

Is there a modern parenting case that you've advised on that is particularly memorable?

I feel very proud to have worked on modern parenting cases that have helped to change the law. There was one high profile surrogacy case, which was particularly memorable, as the high court declared the law, at that stage, to be incompatible with human rights legislation. This led to a remedial order subsequently being passed by Parliament in January 2019, allowing single parents to apply for a parental order. This was so important as single parents of surrogate born children can now cement their legal connection to their own child and thus secure their child's legal and family status.

What legal experience do you have in the 'modern parenting' arena?

I advise clients on a whole range of matters – from LGBT couples wishing to have children to co-parenting arrangements right through to couples having a family through donor conception or surrogacy. It's my role to set out the legal framework and help make a plan of action so people are fully prepared for the journey ahead.

There is definitely a wider acceptance of the various family structures and routes to create families. Society has moved on; the 'traditional' family model of a heterosexual married couple living with their biological children in one home, is no longer the only conventional option. LGBT couples can now have children, be it through fertility treatment or surrogacy, and there has also been an increase in co-parenting arrangements (two or more people who are not in a relationship living in separate homes raising a child). These evolutions in creating families have been happening for some time now and it's great they're getting the recognition they deserve.

What is it about fertility and surrogacy law that appeals to you?

It's a huge privilege to work for people in this area of law. I enjoy my role as being part of the team, guiding prospective parents through the sometimes complex legal hurdles and hopefully minimising their stress along the way. It is also an area of law that is very positive, as you're helping to create a family which is often the most important thing for people.



The Law Commission wishes to make significant changes to surrogacy law – do you welcome these?

Absolutely. I have seen an increase in the number of clients who've sought advice on surrogacy, especially internationally, in recent years. Even though it can be hugely expensive, the lack of uptake of the surrogacy process in the UK is undoubtedly due to the obstacles and uncertain legal framework that intended parents (and surrogates) currently encounter. One key issue is that the surrogate (as the birth mother) is always considered the legal mother and intended parents can only apply to court for a parental order, to be recognised as their child's legal parents, once the child is born. This inevitably places the child in an uncertain legal limbo until legal matters are resolved. This process can take months to finalise - a delay which is both frustrating and creates uncertainty.

The Law Commission's consultation will help to reform the law which hasn't changed in decades and aims to ensure the child's best interests remain the key focus and provides reassurance to all those involved on the surrogacy journey. This can only be a good thing.

For further advice on modern parenting, please contact Jemimah Fleet on familylaw@bpcollins.co.uk or call 01753 279046

Intruders - What are my rights?

SOMEONE BREAKING INTO YOUR HOME IS A TERRIFYING PROSPECT, BUT DO YOU KNOW WHAT YOU ARE ALLOWED TO DO TO PROTECT YOURSELF AND OTHERS?

In a nutshell, if you fear for your safety or others in the home, you can use force that is reasonable in the circumstances, for the purpose of self-defence, protecting another person, preventing crime or in defence of a property.

WHAT IS REASONABLE FORCE?

Reasonable force is both an objective assessment of what is considered a reasonable person and a subjective test, which takes into account the knowledge of the defendant, including what he or she believed in the circumstances.

The Crown Prosecution Service's guidance states: 'You are not expected to make fine judgements over the level of force you use in the heat of the moment. So long as you only do what you honestly and instinctively believe is necessary in the heat of the moment.'

When assessing reasonableness, a prosecutor will follow this guidance and look at whether the force used was necessary and proportionate in the circumstances and was reasonable.

AM I IN MUCH LESS DANGER OF BEING PROSECUTED IF I USE FORCE TO PROTECT MY HOME?

Not quite. You may be prosecuted if you use force that is not considered reasonable, for example carrying on attacking an intruder even if you are no longer in danger.

WHAT IF I CHASE THE INTRUDER AS THEY RUN OFF?

If you are trying to recover stolen property you can still use reasonable force, for example a single blow or a rugby tackle. But if you move into retribution, a self-defence argument couldn't be used.

DO YOU HAVE TO WAIT TO BE ATTACKED?

You can use defensive force if you fear for yourself, or others, in order to ward off an imminent assault.

The Crime and Courts Act 2013 also states that when in your own home, the prosecution must prove beyond reasonable doubt that you have greatly overstepped the mark in terms of your response to defend your home. This is a high burden for the State to prove. Although welcome, this not a green light for homeowners to act with impunity.

Secure a HMO licence or risk £30,000 fine

LAST YEAR, REGULATION CHANGES CAME INTO FORCE IN RELATION TO A HOUSE IN MULTIPLE OCCUPATION (HMO). IF A LANDLORD BREACHES THESE NEW REQUIREMENTS, A CRIMINAL PROSECUTION MAY FOLLOW. JAMES CONSTABLE, ASSOCIATE IN THE DISPUTE RESOLUTION TEAM, ADVISES ON HOW LANDLORDS CAN STAY ON THE RIGHT SIDE OF THE LAW.

Since 1 October 2018, a property is now regarded as an HMO if it has at least five occupants (including children) forming two or more separate households which share basic amenities, such as a toilet, bathroom and kitchen. Previously, the property had to be three stories to be classified as an HMO but this is no longer the case. There are also strict minimum requirements on floor space with each local housing authority having its own regulations. It is estimated that these significant changes will have created 177,000 new HMOs which landlords need to secure a licence for, as soon as possible.

If you don't have a licence, the local housing authority can either impose a civil penalty of up to £30,000 or prosecute in the criminal courts. If convicted, a fine of up to £20,000 can be imposed and proceeds of crime application (POCA) may follow in order to seize rent and associated income from the landlord.

There can be a very narrow defence of reasonable excuse of not having a licence, but the facts of each case will be different and it is advised to seek legal advice as early as possible in the proceedings.

If you have been affected by the issues mentioned in these articles, please contact James Constable on 01753 279039 or email disputes@bpcollins.co.uk.



Wills, Trusts & Probate

Test your knowledge

PERHAPS YOU THINK YOU KNOW EVERYTHING THAT IS REQUIRED TO DRAFT A WILL, OR THE BENEFITS OF CREATING A TRUST; BUT WITH CONTENTIOUS PROBATE ON THE RISE, WHY NOT TEST YOUR KNOWLEDGE WITH OUR MULTIPLE-CHOICE QUESTIONS TO SEE IF YOU NEED MORE EXPERT ADVICE.

1 By 2020/21, families with two parents may have tax free allowances, including the ordinary nil rate band and residence nil rate band (RNRB) of up to:

- a) £650k
- b) £750k
- c) £900k
- d) £1 million

Tip: There are restrictions on the availability of the RNRB, advice should be sought to see if your estate will qualify.

2 The main advantage of having a trust within a will is the flexibility it affords to the trustees to review the position at the date of death. When is a trust advisable?

- a) 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 considered by the local authority

- b) To provide protection against insolvency or divorce of intended beneficiaries
- c) If there is a chance that the surviving spouse will remarry, or you have children from a previous relationship
- d) To reduce the estate of the surviving spouse to below £2 million to qualify for the RNRB

3 You must have all the following to create a will except?

- a) Intention to make a will
- b) Testamentary capacity
- c) Signed and witnessed by two people who are not beneficiaries
- d) Spoken aloud to a judge

4 A will should be changed after all the following except?

- a) Divorce
- b) Marriage
- c) Illness
- d) Birth or adoption of a child

Tip: there are many reasons why you should review your will, contact our Private Client team to arrange a complimentary will review.

5 When is an online probate application suitable?

- a) Where there is more than one executor applying for probate
- b) Where there is a foreign element
- c) When there is a beneficiary dispute
- d) Where there is multiple assets

6 What is the most popular reason for contesting a will in the UK?

- a) Undue influence (unreasonable pressure) applied to the deceased to make and sign the will
- b) The mental and legal ability of the deceased to make or alter their will is disputed
- c) Claim there was a clerical error in the drafting of the will
- d) Claim that the person drafting the will failed to reflect the intentions of the deceased

Tip: All of the above can lead to a claim, highlighting the importance of having your will professionally drafted.

7 What is the most difficult to prove when contesting a will in the UK?

- a) Undue influence (unreasonable pressure) applied to the deceased to make and sign the will
- b) The mental and legal ability of the deceased to make or alter their will is disputed
- c) Claim there was a clerical error in the drafting of the will
- d) Claim that the person drafting the will failed to reflect the intentions of the deceased

8 The time limit for a claim against an estate is:

- a) 3 months
- b) 6 months
- c) 2 years
- d) 5 years

9 The time limit for issuing a claim against an estate from the date of the Grant of Representation, under the Inheritance (Provision for Family and Dependents) Act is:

- a) 3 months
- b) 6 months
- c) 2 years
- d) 5 years

How did you do?

Five or less questions correct? Perhaps it's time for a meeting with B P Collins' wills, trust and probate team to help avoid any disputes amongst loved ones after you've gone. With the law changing frequently and contentious probate on the rise, B P Collins is committed to helping you minimise the risk of a claim against your estate, by providing up to date and tailored advice. Call 01753 279030 or email privateclient@bpcollins.co.uk.

1) d 2) all 3) d 4) c 5) none of the above
6) a 7) a 8) a 9) b

House Of Cards

Protect your share of the property

IT'S HUGEY EXCITING WHEN YOU HAVE YOUR PARTNER OR A FRIEND MOVING INTO YOUR HOME FOR THE FIRST TIME OR IF YOU'RE BUYING YOUR FIRST HOUSE TOGETHER. BUT BEFORE YOU CRACK OPEN THE BUBBLY, IT'S IMPERATIVE TO GET A LEGAL AGREEMENT IN PLACE TO PROTECT YOUR SHARE OF THE PROPERTY. OTHERWISE THE SHAKY FOUNDATION OF ANY VERBAL AGREEMENT THAT WAS MADE ABOUT YOUR HOME, COULD COME CRASHING DOWN LIKE A HOUSE OF CARDS IF THERE'S A DISPUTE OVER OWNERSHIP.

There is a growing number of unmarried couples and friends in England and Wales, who are deciding to purchase a property together. Very often, there is no legal agreement in place in relation to the proportions in which the property is to be held or relating to what would happen in the case of the couple separating. This can cause lengthy and protracted disputes later down the line, with the Court needing to intervene in many cases to decide what should happen to the property, which could add to the cost.

In some cases, one partner will move into a property which is already owned by the other. Again, there is unlikely to be a formal agreement in place which documents the parties' intentions in relation to contributions towards household expenses and mortgage repayments. If the couple split later, the partner that is not a legal owner of the property, may assert that they have acquired a 'beneficial interest' in the property. This interest can be acquired with little formality, and without any written agreement. It can be acquired by virtue of their financial contributions.

Avoid potential claims

This may come as a surprise to the partner who believes themselves to be the sole owner of the property, legal or otherwise. The assumption is that they may ask the other to move out of 'their' property, and that will be the end of the matter. The potential claim may come out of the woodwork many years down the line, which can be hugely stressful

Avoid costly disputes

It is worth obtaining legal advice at an early stage and formalising the agreement between you and anyone you intend to own property with before a dispute arises.

TO HELP AVOID COSTLY DISPUTES, THERE ARE A VARIETY OF OPTIONS THAT CAN BE SET UP BY A PROPERTY LAWYER.

1. Deeds of waiver - these documents can record your agreement that, regardless of payments that the other person makes or works they undertake; they are not to acquire an interest in your property.
2. Cohabitation agreements - these are more comprehensive documents, which can detail the intentions in relation to property solely owned by one partner. It can also deal with other issues in relation to cohabitation.
3. Declarations of trust - in the case of a property that is jointly owned, this will document the respective shares that each will hold and it can also detail what will happen in the case of a split or any other disagreement between the parties.

Safeguard the ownership of your property

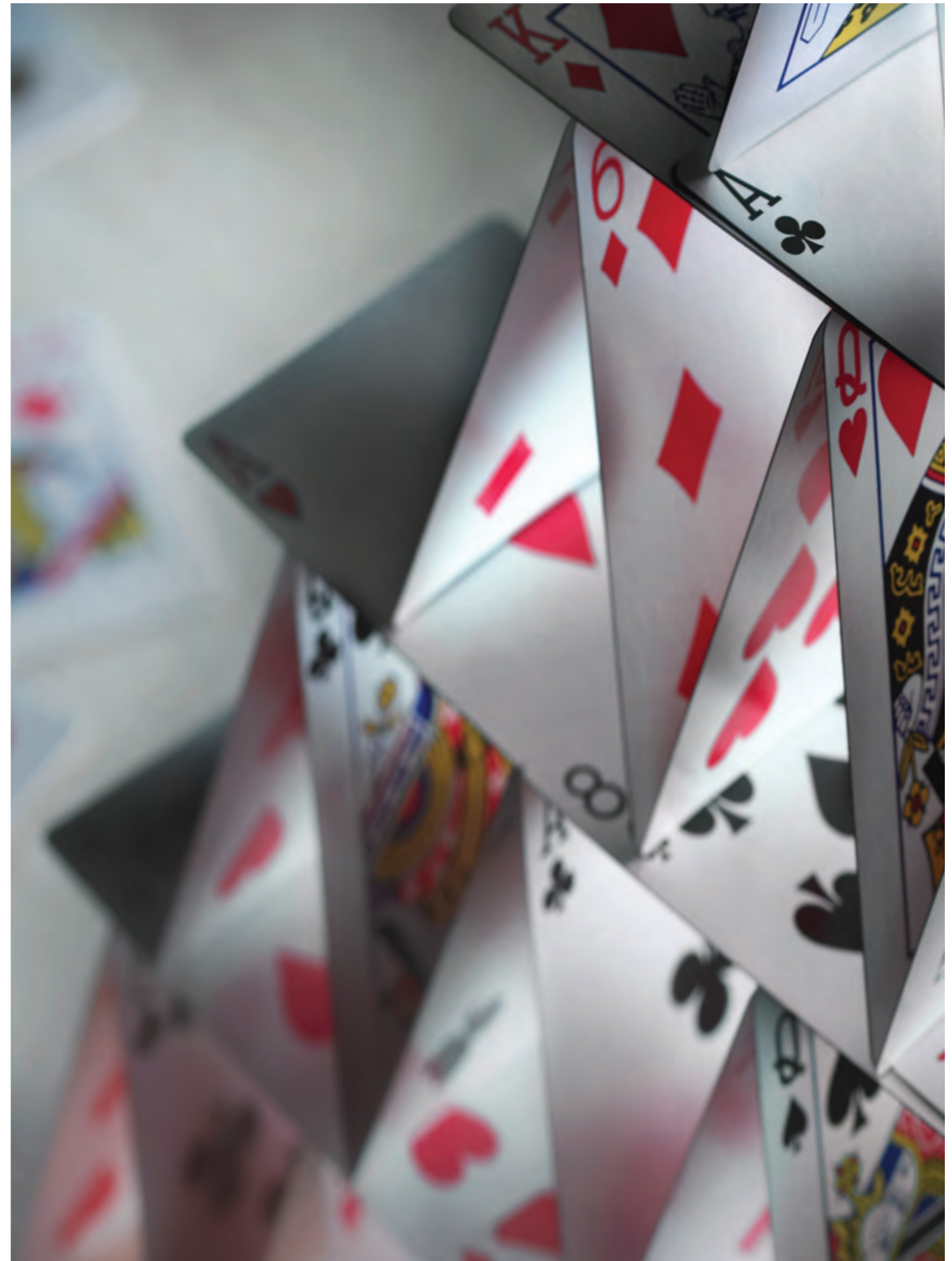
To help safeguard the ownership of your property and provide peace of mind, please contact B P Collins' property team on:

RESPROPERTY@BPCOLLINS.CO.UK
01753 279064

Are you facing a dispute over your home?

If you're about to face a dispute over your home, please get in touch with Phil Hind from B P Collins' property dispute resolution team on:

DISPUTES@BPCOLLINS.CO.UK
01753 279035



IR35

Are you self employed?

Private sector firms will have to take responsibility for confirming the true status of their relationships with contractors from 6 April 2020.

IR35 (which is part of the off payroll working rules) is a set of regulations that intends to combat tax avoidance by consultants who are providing a service to clients via a personal services company (PSC) and would be considered, for tax purposes, to be an employee of the end user company.

IR35 has often been criticised for being overly complex, disruptive to business and poorly executed by HMRC – in fact figures from 2017 show that the government department has lost 5 out of every 6 challenges to its IR35 related fines. In order to tackle the challenges associated with IR35, significant changes are being made in 2020 that will have a wide ranging impact both on end user companies and the consultants themselves.

Key changes in 2020

On 6 April 2020, the end-client will become responsible for establishing whether a contract engagement with a consultant via its PSC falls within the rules. Up until then, it is the responsibility of the person supplying the services to make this determination. The rules will bring the private sector in line with the changes brought in for the public sector in April 2017.

This new legislation will only apply to medium or large businesses. There will be an exemption for end-clients who are 'small businesses,' where the responsibility for determining the IR35 status of a contract will remain with the PSC and the new changes will not apply.

It's important to note that the government has included clauses in the legislation to ensure that medium or large businesses do not set-up arm's length companies or subsidiaries to procure services from PSCs. The legislation will apply to the parent company based on the aggregate amount of turnover and the aggregate amount of the balance sheet total of the connected entities. There's no small business exemption for public sector organisations and the legislation will apply to all end-clients engaging PSC workers in the public sector.

Check of Employment Status for Tax (CEST) Tool

HMRC recognises that CEST needs to be improved if businesses and contractors are to make correct decisions on whether off-payroll working rules apply. Many experts agree believing that its assessment on; whether a contractor has control over tasks, if they bear financial risk, whether they can be substituted for another contractor (which should all be in place), and mutuality of obligation (which considers the extent of the requirement to be offered and to accept work); is not effective. In fact, CEST is only able to provide an answer in 85% of the cases.

The Chartered Institute of Taxation has given its view that CEST needs a substantial upgrade before the new off-payroll working rules are introduced, "if businesses are to make the correct decisions on whether the off-payroll working rules apply."



Top 10 industries with the most freelance and contractor jobs according to Flexjobs. Contractors and engaged companies in these sectors are urged to review their relationships now.

- | | |
|---------------------------|----------------------------|
| 1. Computer and IT | 6. Medical and health |
| 2. Administrative | 7. Project management |
| 3. Accounting and finance | 8. Research |
| 4. Customer service | 9. Writing |
| 5. Software development | 10. Education and training |

B P Collins can help...

If you engage a consultant or currently provide your services as a consultant through a PSC, our clear advice is to act now to assess your engagements to see whether you fall within the rules.

For end user companies, B P Collins can provide an onsite audit of your arrangements and give you a view as to whether an engagements falls within the rules and whether your agreement with your contractors should be restructured. Failure to do this could result in substantial tax liabilities and penalties for consultants and, if not corrected by 6 April 2020, this liability could extend to the engaging company.

If you're also unsure about whether the outcome of a CEST search is accurate and need an expert opinion, B P Collins can also help.

Please contact Chris Brazier, employment partner at chris.brazier@bpcollins.co.uk or call 01753 889995 for further advice.



ANNUAL ENVIRONMENT ROUNDTABLE



B P Collins, which has advised the UK's waste management sector for over 20 years, hosted its annual environment round table discussion with a series of leading UK waste management and recycling companies including Biffa, P B Donoghue, Green Redeem, Veolia Group, Carbon Statement and Thames Valley Chamber of Commerce. The discussion was chaired by Matthew Farrow, the executive director of the Environmental Industries Commission (EIC).

David Smellie, environment and corporate and commercial partner, B P Collins said that, "Gove has been instrumental in the government's overhaul of the UK's waste strategy, but there is still much more to do. The UK still exports a large amount of waste and something has to be done to reduce the level of waste being produced."

Jeff Rhodes, Biffa agreed, "China and other countries have introduced restrictions on what recycling it will accept. As a result, UK infrastructure really needs to be improved, so we don't have to rely on recycling export markets as much."

For more information or advice on the waste management sector contact our practice group leaders on environment@bpcollins.co.uk or call 01753 889995.



CHAMBERS HIGH NET WORTH GUIDE 2019

Chambers High Net Worth 2019, which ranks solicitors and barristers in specialist areas of law in the high net worth arena, has ranked Martina Razaq, partner in B P Collins' high value residential property team, for the first time. The residential property practice also maintains its UK ranking for a second year running. Meanwhile, partner Craig Williams, retains his band 1 status for his success in private wealth disputes in the Thames Valley. The private wealth law team led by partner Lucy Wood, also maintained its ranking.



B P COLLINS' LAWYERS WIN LAW SOCIETY AWARDS

B P Collins' lawyers picked up two award wins and a commendation at the Berks, Bucks and Oxfordshire (BB&O) Law Society Legal Excellence awards. Simon Carroll, senior associate in the dispute resolution team, won 'Solicitor Advocate of the Year'; Elliott Brookes, property litigation solicitor, won 'Junior Lawyer of the Year' and Chris Brazier, employment and business immigration partner, received a commendation in the 'Lawyer of the Year' category.



B P COLLINS WINS THAMES VALLEY CHAMBER OF COMMERCE'S WORKPLACE WELLBEING AWARD

B P Collins won the Thames Valley Chamber of Commerce's (TVCC) Workplace Wellbeing Award over the summer. Steve Perry, Business Development manager, said:

"B P Collins took the decision that its wellbeing programme would become an intrinsic part of its business strategy and embedded into its culture.

This was to ensure it wouldn't become a forgettable tick box exercise and instead would properly look after the health and wellbeing of all of our team who are hugely valued.

Thank you to Thames Valley Chamber for recognising our efforts."



B P COLLINS RECEIVES INTERNATIONAL CSR EXCELLENCE AWARD

B P Collins is delighted to have been recognised at the International CSR Excellence Awards which were held at the Royal Academy of Dramatic Arts (RADA) in London. B P Collins' silver award recognised its efforts in four pillars: Environment, Community, Workplace and Philanthropy.



LEGAL 500
B P COLLINS ACHIEVES AN OUTSTANDING
NUMBER OF TOP TIER RANKINGS

B P Collins has achieved an outstanding number of top tier rankings in a range of practices and a huge number of lawyers have been "recommended" in The Legal 500, a leading independent UK legal directory. It said that: "B P Collins has proved willing to assist with and fit in with client expectations while maintaining high standards."

New appointments

B P Collins would like to welcome **Jemimah Fleet**, a specialist in surrogacy and fertility law, to the family practice; **James Constable**, an associate and experienced solicitor-advocate in the dispute resolution team; **Natalie Boorer**, senior associate in the wills, trusts and probate team and **John Hargrave**, our new Chief Operating Officer.



Upcoming Events

Gin & Book Club

The B P Collins Gin & Book Club is going from strength to strength. If you'd like to come along to The White Hart in Beaconsfield email enquiries@bpcollins.co.uk to sign up.



Date for your diary ²⁰²⁰

B P Collins is sponsoring the Five Counties Conference again which attracts over 400 property professionals to hear a wide variety of talks from experts including Phil Hind, from B P Collins' property dispute resolution team. It will be held at the High Wycombe Swan on the 26 February 2020.



Take our wills, trust and probates test.
Find out more on pg 10 & 11.

#ByYourSide

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*Corporate & commercial | Dispute resolution | Employment | Family | Property | Wills, trusts & probate
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