

SUMMER 2014

NEWSLETTER No. 11

## WELCOME TO OUR LATEST NEWSLETTER



**Success!** We are pleased to announce that for the 9th year running, we have been awarded the Petersfield in Bloom Gold award for our beautiful floral display. We are grateful to our staff members who keep them well watered!

### Office News

Roger Petch, our senior partner has recently celebrated 40 years' service at this firm. Arriving here as an articled clerk (as trainee solicitors were known as in those days) he was mentored by Alan Lunt until Roger qualified. Roger started his career dealing with litigation matters but later switched to deal mainly with conveyancing and he now heads that Department among other partnership duties.

We are pleased to announce that Samantha Small has now returned to the office after her maternity leave. Samantha is now back in full swing should you require her services.



### Macmillan Coffee Morning

We can confirm that we will, once again, be taking part in the World's Biggest Coffee Morning (<http://coffee.macmillan.org.uk>) on Friday 26<sup>th</sup> September. Please pop along for tea/coffee and lots of cake in the office on that day between 10am – 2 pm. Please contact the office if you would like more details.

### Civil Partnership, Conversion fee to be waived for one year.

The Minister for Equalities, Sajid Javid MP has confirmed to the House of Commons the draft regulations will be laid before Parliament immediately to provide for same sex couples in civil partnerships converting their relationships to marriages without having to pay a fee from 10<sup>th</sup> December. This conversion fee would be waived for a period of one year and this would only relate to couples who entered into civil partnerships before same sex marriages were introduced.

Heterosexual couples who want to recognise their relationship as a civil partnership rather than a marriage will not be granted the same permission.

To convert a civil partnership into marriage a couple will have to attend a Register Office and sign the declaration that they wish to be married in front of a Registrar. There were more than 120,000 in civil partnerships when the statistics were last published in October 2013 and it is unknown what proportion may wish to convert their civil partnership to a marriage.

## **The importance of Financial Separation following Divorce**

Many of our clients believe that by getting divorced they will also be financially separated from their ex-spouse but this is not the case. Divorce does not create a financial clean break between the parties, only a financial order from a court ensures you are financially separate from your ex-spouse.

If you are divorced but did not obtain a financial order from the court, consider the position if you won the lottery or received a large inheritance; would you want your ex-spouse to potentially have a claim against that money? It is possible to obtain a financial order at any time following divorce so if you are in any doubt about the way the finances of your marriage were settled, we can discuss your position with you and give you advice about the best way to protect yourself for the future.

## **Spotlight: Pensions on Divorce**

Often when parties divorce there are two assets which are typically substantial, the family home and the value of pension entitlements. The former is normally relatively easy to value; the latter can be more problematic.

The first step is to obtain a valuation of the pension rights. Sometimes it is appropriate to obtain a valuation from the pension provider, however when there are large sums involved seeking professional advice can be a prudent move. There are a number of ways the division of pension entitlement can be put into effect and we are able to advise about the appropriate options in your circumstances.

Although sometimes of less value, State pension rights should also be ascertained and considered.

## **Energy Performance: The Importance of acting on F and G ratings**

The Energy Act 2011 contains prospective legislation relating to energy efficiency in commercial buildings (and residential buildings). The Act provides that, from April 2018 at the latest, it will be unlawful to rent out residential and business premises which do not reach a minimum energy efficiency standard.

The detailed regulations have not yet been issued but the Government has indicated that the lowest acceptable energy rating is likely to be E. This means that landlords of F & G rated buildings will be unable to let them out after April 2018 unless they take steps to improve the energy efficiency of those buildings.

It is of course possible that the proposals contained in the Energy Act 2011 may be altered significantly or abandoned altogether, but, equally, 1 April 2018 is the latest date on which the law may come into force so the new regulations could actually be implemented sooner.

Property owners and lessees of buildings are advised to consider what action they should take now, rather than possibly exposing themselves to increased costs over a shorter timescale in the future.

## **Should I take my case to Court?**

If you have been negotiating to resolve a complaint or dispute but have not been successful, you may want to consider going to court. Before taking legal action, you should make sure that you have tried all other options for resolving your dispute and you should consider the following:

- Can the other party afford to pay? If not you may be throwing good money after bad.
- Can you afford to go to court? If successful you may get an award for your costs to be paid by the other party but such an award is not guaranteed. Also bear in mind you may be ordered to contribute towards the other party's costs.

- Is there a time limit on your claim?
- Do you have the other party's full, correct details so the claim can be issued appropriately allowing your claim to proceed without additional cost and delay?
- Do you need a Solicitor? If your claim is for £10,000 or less (£5,000 or less for personal injury or housing disrepair) the small claims track is an informal way of settling a dispute. Some clients decide they do not require a Solicitor to represent them for a small claims matter. If you are claiming over £10,000 (or £5,000 if it is for personal injury or housing disrepair) or your case is legally complex usually clients prefer to secure legal representation before commencing their claim.

## **New Child Maintenance Regulations**

New Child Maintenance Regulations came into force on 30<sup>th</sup> June 2014 which some argue penalize single parent families. It will mean that most parents making a new application to the Child Maintenance Service (CMS) carrying out the work of what was previously the Child Support Agency (CSA) will have to pay £20 application fee. Once the assessment for Child Maintenance has been made if the CMS continues to act in collecting and forwarding on the Child Maintenance payments, a 20% administration fee will be added to every amount collected from the non-resident paying parent and there will be a 4% fee paid by the recipient parent.

The Government is hoping that as parents seek to avoid charges, they will set up their own private arrangements, using the CMS service only to determine the level of maintenance that needs to be paid rather than to collect this. It is hoped that such an approach where parents are encouraged to cooperate, will result in better relations between separated parents.

## **Our Leaflets**

You may or may not be aware that we have a range of leaflets covering certain areas of law and should you wish to have any of these then please call into the office. The current range has just been updated and includes:-

### **Matrimonial**

Lasting Powers of Attorney

Landlord & Tenant

Information for the Recently Bereaved

Deed of Family Arrangement

Joint Tenancy & Tenancy in Common

Capital Gains Tax

Litigation

Wills

Commercial Property

Trusts

Court of Protection

Conveyancing

Family & Divorce

Probate

Inheritance Tax

Most of this information can also be found on our [website](#)

## **Your Home and Capital Gains Tax**

Everybody is entitled to capital gains tax (CGT) relief on their main home, known as principle private residence (PPR) relief. This valuable relief means you pay no CGT on your property for the whole time you live there, together with the final eighteen months of ownership. This eighteen month period applies even if the property is let out or is no longer your main home.

If you buy a second home, or a holiday home, you have the opportunity to choose which property should be treated as your primary residence for capital gains tax purposes.

You must write to your tax inspector within two years of buying your second property if you want to elect a property as your primary residence. Once you have chosen a property, you can subsequently change your mind as often as you like by writing to HM Revenue & Customs.

If you do not elect a property within two years, your existing home is likely to be treated as your PPR. You will not be able to change this in the future unless you sell the property. If you sell it, it will be free of capital gains tax, assuming you have always occupied it as your main home. If you then move into your second home, it will only be exempt from capital gains tax from the time that you occupy it as your main home.

## **The Care Act 2014**

The Care Act represents the most significant reform of care and support in more than 60 years. Care and support is something that nearly everyone in this country will experience at some point in their lives.

It is about changing the way people are cared for. Central to the Act is the concept of wellbeing. Councils will now have a duty to consider the physical, mental and emotional wellbeing of the individual needing care. They will also have a duty to provide preventative services to maintain people's health.

The system will be built around each person – what they need, how they can best be cared for, and what they want. By providing and legislating for Personal Budgets in the Care Act people are given the power to spend money on tailored care that suits their individual needs.

One of the biggest concerns people have is how they will pay for their care. New measures are being brought in to give people greater peace of mind that they'll get the support they need without facing unlimited costs.

Councils will have to offer information and advice to help everyone understand what support they will need to help them plan for the future. Every council will have to offer a deferred payment scheme, meaning no one should be forced to sell their home during their lifetime in order to pay for their residential care.

### **Disclaimer**

This newsletter has been prepared to highlight some key issues. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at July 2014 and may be affected by subsequent changes in the law. Additional information and updates are available from time to time on our [website](#).

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### **I would be interested in future newsletters**

**Name** .....

**Address or e-mail address**.....

Return to: 16 High Street, Petersfield, Hampshire GU32 3JJ Tel No: 01730 265111  
(SRA Number: 58323)

If you do **NOT** wish to receive any further updates or communication from us, please notify Diane Anderson by [email](#) or phone on 01730 265111.