

LEGAL BULLETIN

Lasting Powers of Attorney

Solicitors and others are always urging their clients to make Wills (for good reason). With a few exceptions, people accept that there is good sense in preparing for the inevitable. It brings peace of mind and eases family problems on the death of a relative. But what of planning for the eventuality of accident or ill health which can have a huge impact on your ability to manage your affairs? This is something that could have a very serious impact on the running of a business where a key figure in that business, such as a partner or a director is suddenly taken ill.

A Lasting Power of Attorney can enable the person's colleagues to continue the business unaffected, without one serious problems could arise.

Lasting Powers of Attorney provide an effective safeguard against the unexpected. By appointing an Attorney or Attorneys to manage your finances, and also, if desired, make decisions about your health and welfare should you be permanently or temporarily incapacitated, you can provide your family (and your business if relevant) with the means to carry on if you cannot manage your affairs.

We at Susan Howarth & Company Limited offer an efficient service to assist you in putting Lasting Powers of Attorney into place. We would be happy to give you more information on request. Please contact Hugh Lewis Morgan for further information.

For any Senior Citizens interested in making a Power of Attorney, please come to our Senior Citizens 'Drop-In Free Surgery' every Wednesday from 12 noon until 2pm at our offices, no appointment necessary.

Cohabitation and the law – changes afoot?

A Private Member's Bill currently in Parliament aims to give long-term cohabitants rights more akin to those enjoyed by married couples and those in civil partnerships.

At present, a long-term cohabitant has no more legal rights relating to their partner than a person would if they were living with a friend.

The Bill defines long-term cohabitation as cohabitation lasting two years or more. Interestingly, it makes provision for couples who specifically wish not to have legal relations established between them to be able to 'opt out'.

The Bill proposes to give a long-term cohabitant the right to bring a claim for a financial settlement against their former partner if they have suffered an economic disadvantage and the court is satisfied that their claim is 'just and equitable'.



The terms of the settlement would be based on essentially the same factors as a financial settlement on divorce or the dissolution of a civil partnership, including the relative financial positions of the two parties, the arrangements for looking after children and their needs, and so on.

If you are concerned about the legal issues that may arise if you intend to cohabit or even just share a property with another person or persons, contact us.

SOLICITORS
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Husband who hid assets faces new settlement

If you have negotiated a divorce settlement and then find out that your ex-spouse has been less than open when disclosing their personal finances, the court will reopen the matter if there is sufficient evidence to do so.

In a recent hearing, the court was told by the ex-wife of a businessman that he had not been entirely truthful when he had made his financial disclosures. She claimed that her ex-husband had substantially undervalued his assets by claiming that shares he owned in a company had no value because it was not trading, when the turnover was in fact in excess of £50 million. She alleged that the shares were worth more than £700,000. In addition, she claimed that he had failed to disclose other investments he held that were worth more than £800,000.

The wife successfully applied for the previously agreed financial settlement of £1.8 million to be set aside so that a new settlement, based on the true position, could be negotiated.

The Courts insist that the disclosure of assets and income in such circumstances is correct and complete. Failing to be open and truthful can lead to unpleasant consequences.



Buying a home 'Off plan'? Beware the pitfalls

As the property market picks up, sales of 'off-plan' properties are due to rise but a recent case shows that buying off-plan property has potential pitfalls. It involved a couple who failed to complete the purchase of a flat due to the withdrawal of their mortgage offer whilst building works were still ongoing. As a result, they forfeited their deposit and were ordered to pay compensation to the developers.

On agreeing to buy the flat, the couple had paid a deposit in excess of £17,000 and arranged mortgage finance for 90% of the purchase price. However, completion of the development was delayed. The couple, whose mortgage offer had by that time expired, attempted to repudiate the contract owing to the delay and claimed their deposit back. The County Court accepted that the delay of eight months completing the project was a 'breach of contract' by the

developers and they were ordered to repay the couple their deposit, plus interest and legal costs.

Allowing the developers' appeal, however, the Court of Appeal ruled that the couple had not been entitled to treat the delay as having brought the contract to an end and it was they who had repudiated the contract by failing to complete the purchase.

The Court found that the couple would have lost their mortgage funding even if the building work had been finished on time. It could not be said that the delay had deprived them of substantially the whole benefit they would have enjoyed under the contract and they had consequently not been entitled to withdraw from their obligation to complete.

We can advise you on how to protect your rights should you be considering an 'off-plan' property purchase.

Carer wins unfair dismissal claim

Many arrangements with carers are informal and it is easy to forget that this does not mean that 'anything goes'.

Where a carer is paid, an employer/employee relationship will normally arise. This carries implications as regards – for example – National Minimum Wage and PAYE legislation. Employment law rights may also come into play, as a recent case showed.

It involved a pensioner, aged 76, who had taken on a carer. The carer looked after the pensioner's wife, who had Parkinson's disease and who eventually died in March 2013. Following his wife's death, the pensioner cut the carer's weekly hours from 30 to 16 without giving her notice.

The carer resigned and brought a claim for constructive unfair dismissal. She was

awarded more than £3,500 in compensation.

Just because arrangements may seem to be informal does not mean that there is no law applying to the relationships established.

For advice on the legal implications of your care arrangements or proposed care arrangements, contact us.



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