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## Legally Speaking - Judge & Priestley's Quarterly Legal Update for Private Clients

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Welcome to J & P's latest newsletter, specially designed to keep you up to date with all the latest legal developments affecting you and your family.

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For more than 125 years we have been providing clients with expert and professional legal advice. We understand the value of a personal and friendly service.

Judge & Priestley  
LLP  
Justin House  
6 West Street  
Bromley  
Kent BR1 1JN

# Winners and Losers in the New Intestacy Laws

On the 1st October 2014, the Inheritance and Trustees' Powers Act 2014 came into force, and the legislation brings about some major changes regarding the rules of intestacy.

Before we get into the nitty-gritty of what changes have occurred, and who benefits most from the revamping of the intestacy laws, we must make clear that it is still highly advisable you organise a valid Will. This is still the only way to ensure that your estate will be divided up according to your express wishes.

### The Old Rules Versus the New Rules – What Has Changed?

Prior to 1st October, if an individual died without a Will, then the Rules of Intestacy would decide how their estate would be divided up. This is still the case; for it is the Rules, not the procedures which have changed. Let's look at the main changes separately.

#### Couples Who Live Together

Many people may be shocked to learn that one group of society is still blocked from receiving anything if their partner dies intestate. That's right. Co-habitees. And it makes no difference whether they have lived together for 20 months or 20 years. It is therefore vital to organise a valid Will if you wish to ensure your partner inherits part of the life you have both built together, (or, make a trip down the aisle).

#### Married Couples Without Children

One of the most significant changes brought into force by the legislation affects married couples without children. Prior to 1st October, if an estate of a person who died intestate was valued at more than £250,000, the surviving spouse would receive £450,000 plus half of the residual estate. The remaining half of the estate was split between the deceased's blood relatives. Under the new rules, the surviving spouse inherits the entire estate.

#### Married with Children

The new rules also sweep away the rather confusing principle that a surviving spouse with children will only receive a life interest in a portion of the estate. For example, Richard's wife and the Mother of their two adult children, Alice, dies intestate leaving an estate worth £800,000. Under the rules of intestacy as they were prior to 1st October, Richard would receive the first £250,000 of the estate. The children would receive half the residual estate (£275,000) immediately.

They would also receive the other £275,000, however, Richard would be entitled to a life interest of the amount. Therefore, during his lifetime, he could receive an income off the £275,000 (for example rental income if the money was tied up in property) but he could not dip into the capital as this would go straight to the children after his death.



Under the new rules, Richard would receive the first £250,000 and half the residual estate (£275,000). The children are only entitled to receive £275,000 (and if they are under 18 years it would be held in trust). This overhaul of the rules could put quite a strain on family relationships, as if the estate is worth little more than £250,000, the children may only be entitled to a very nominal amount.

#### Adopted Children

Where a child is adopted after the death of an intestate parent, the child will not lose their interest under the deceased parent's estate even though the adoptive parents are to be treated as the only parents of the child for all legal purposes.

#### In Summary

The simplifying of legislation which is nearly 90 years old in some cases, does relieve some of the injustices the intestacy rules have caused to some groups of individuals, such as surviving spouses and subsequently adopted children. However, co-habitees still miss out on receiving any part of their partner's estate, and surviving children may also feel short-changed by the new rules regarding their inheritance rights, especially if their natural parents had divorced and the deceased individual subsequently remarried. If this parent dies intestate, then the children may well receive no benefit from the estate as most of the money will be passed onto the surviving step-parent.

Undoubtedly, the best way to avoid any unnecessary stress and heartache for your surviving loved ones is to make an appointment with one of our solicitors to draw up a legally binding Will. To find out more call David Chandra on 0208 290 7348.

## Delays over powers of attorney causing stress

Delays in the process of setting up lasting powers of attorney (LPA) are causing considerable stress and expense for thousands of families, according to a report in the Times newspaper.

An LPA is a legal arrangement that enables you to authorise someone you trust to make decisions on your behalf should you lose mental capacity at some point in the future.

LPAs can be extremely valuable in helping your family look after your affairs if you are no longer able to do so yourself.

The Times report says more people are now applying to register LPAs, leading to considerable delays at the Office of the Public Guardian, which administers the process. Lawyers say applications are currently taking up to 14 weeks and in some cases even longer.

The delays don't matter particularly to people setting up LPAs in advance in case they need them in the future. However, the long application process can cause problems for families caring for a loved one who has lost capacity without having an LPA already in place.



In such cases, they may find it difficult to access bank accounts, pay bills or arrange the sale of property or other assets – all of which may be needed to organise finances correctly or fund treatment.

The best way to avoid delays is to set up an LPA in advance. You may never need it but you will have the comfort of knowing that if you ever do, it is already in place.

For more details contact

**David Chandra** - 020 8290 7348 [dchandra@judge-priestley.co.uk](mailto:dchandra@judge-priestley.co.uk)

## PA unfairly dismissed because of affair with her boss

A personal assistant who was sacked after having an affair with her boss has won her claim of unfair dismissal.

The PA lost her job after the affair was discovered by the boss's wife.

The PA, who cannot be named for legal reasons, had been in a relationship with her boss who was chief executive of the company.

During the relationship he had moved her into a flat in London's fashionable Belsize Park, bought her a car and taken her on expensive holidays. He tried to dismiss her when his wife received an anonymous letter revealing the affair.

The PA told the court: "He said that his wife was putting pressure on him to sever all ties with me and didn't know



### Employment Law

why I was still working there if the relationship had finished."

The chief executive's children stopped talking to him because of the affair and he became more hostile towards his PA. He offered her a £50,000 tax free redundancy package but she refused to leave.

Two months later he sacked her in an angry phone call.

She was evicted from her flat in Belsize Park and became depressed. Her depression was disabling and she was unable to look for a new job.

The PA brought an action against the company for unfair dismissal, harassment and sex discrimination.

During the trial, details emerged of a culture of sexism that existed at the company.

The judge said that the culture of sexism didn't in itself amount to harassment but did show that the company had a "complete disregard for modern employment law".

The PA was awarded £34,195 to cover her loss of earnings and future loss of earnings, unfair dismissal and harassment.

For more details contact

**Paul Stevens** - 020 8290 7422  
[pstevens@judge-priestley.co.uk](mailto:pstevens@judge-priestley.co.uk)

## Daughters don't have to see their father against their wishes

A father has been denied direct contact with his daughters because they insisted that they didn't want to see him after he separated from their mother.

The sisters were born in 2003 and 2006. They both moved out of the family home with their mother when their parents separated in 2008.

The sisters became distressed every time the subject of visiting their father was raised. They were both insistent they no longer wanted to see him. The father applied for direct contact but the judge rejected the application.

An indirect contact order was issued instead, meaning the father couldn't see his daughters personally, but could have messages and presents passed on to them by a third party.

The judge encouraged the mother to remain in contact with the daughters' paternal aunts, with whom she had remained on good terms, but added that it wasn't compulsory.

The father took the case to the Court of Appeal but it upheld the decision. It ruled that the judge had not erred in his decision that a direct contact order

would not be to the daughters' benefit. It would be wrong to force them to see their father against their wishes.

The judge had considered all possible alternatives, listened to the evidence of expert child psychologists and proceeded in the correct manner.

For more details contact

**Thowheetha Shaah** - 020 8290 7331  
[tshaah@judge-priestley.co.uk](mailto:tshaah@judge-priestley.co.uk)



## J&P charity stall at the Sunrise Summer Fete

This summer, the Private Client department at Judge and Priestley were delighted to be asked to run a stall at the

Sunrise Senior Living's Summer Fete. This was to be held at their Sunrise of Froggnal House home situated in Sidcup. Set in 7 acres of luscious grounds, Froggnal House was built in the early 18th century and was the residence and birthplace of the 1st Viscount Sydney, Thomas Townshend after whom Sydney, Australia was named.

After much thought we decided our stall focus would be 'guess the price of the hamper'. With an array of treats and all proceeds being donated through Sunrise to the Alzheimer's Society, it wasn't hard to entice willing participants.

The weather held up and the sun broke through and when we were not drumming up interest in our own stall, we got to browse the petting zoo, raffle and craft stalls, and even tried our hands at 'hook a duck'.

Anyone that has been to Sunrise of Froggnal House will agree that it boasts beautiful grounds, and the sunshine, jazz and afternoon tea perfectly complimented this. It made for a thoroughly enjoyable experience, one that we were truly glad to be a part of.



## Macmillan Coffee Morning comes to Judge and Priestley

Every year Macmillan holds their biggest fundraising event asking people across the UK to hold a coffee morning and raise money for people living with cancer. In 2013, 154,000 people signed up, raising a record £20.532 million.

This year, the coffee morning was held on the 26th of September and run by the marketing department at Judge and Priestley. To raise as much money as we could, staff were emailed and asked to mark the date in their diaries and help in providing cakes on the day, either home baked or shop bought.

On that Friday, we organised to have the cakes sold in each kitchen, on every floor at a suggested minimum donation of 50p. But that wasn't the only trick we had up our sleeves... Everyone was encouraged to take part in the Coffee Bean and Sweepstake games where each



participant stood the chance to win half the proceedings.

We raised in excess of £300, our highest amount raised to date for the Macmillan coffee morning and look forward to continuing our support of such a worthwhile cause.

## UK house prices fall for the first time this year

House prices in Britain have fallen for the first time this year, according to figures from the online estate agency, Rightmove.

The average asking price for a home in June was £272,275. This dropped to £270,159 in July – a 0.8% reduction.

Houses in Greater London were the most durable in holding their value, suffering just a 0.4% drop. Properties in the North and East Midlands suffered a 1.9% drop in value. The fall in prices is thought to be the result of tighter regulation on mortgage eligibility.

The Bank of England took steps to curb reckless lending amid fears that the London housing market could pose a serious threat to the UK economy. Banks and building societies have been



told that only 15% of their total loans should be at 4.5 times the borrower's income. Other factors could include concerns about interest rates which are likely to rise.

Meanwhile, the government has announced a change to the Help to Buy mortgage guarantee scheme amid

concerns over rising house prices. New loans granted under the scheme must now be less than 4.5 times the borrower's income.

The aim is to prevent house prices rising too quickly and to ensure that borrowers will still be able to pay back the mortgage if there is an increase in interest rates in the coming two years.

The government says that the latest official statistics show that the Help to Buy mortgage guarantee scheme is only supporting responsible lending. The cost of the average house within the scheme is £150,000 at a ratio of 3.1 times borrower's salary.

For more details contact **Madelaine Henwood** 020 8290 7413 [mhenwood@judge-priestley.co.uk](mailto:mhenwood@judge-priestley.co.uk)

# Leading judge lays out plans for divorce reform

One of Britain's leading family law judges is calling for changes in the divorce process that would take most cases out of the courts altogether.

Sir James Munby is the President of the Family Division of the High Court. He wants uncontested divorce cases without any claims over money or children to be settled in a national processing centre.

Sir James has written to family lawyers stating that his aim is to simplify and streamline the process to make it more user friendly.

There are 120,000 divorce cases every year in the UK.

It's hoped that the changes would make the process more straightforward and less acrimonious, thus causing as little trauma as possible at a highly stressful time.

Sir James said: "Divorce, as a process, is in large measure administrative, albeit conducted judicially by district judges. It is a process which lends itself to handling in a few places and perhaps, eventually, in a single national processing centre."

Resolution, the association of family lawyers, said it supported the idea together with anything else that would "make the divorce and separation process more straightforward



and easier to navigate for separating families - and less acrimonious".

Sir Paul Coleridge, founder of the Marriage Foundation, said: "Most judges and lawyers would see this as the logical conclusion to where we have got to. But there is a risk that people will get the wrong impression that divorce is being made easier. It is not."

Sir James has set up a working group to see how such changes might be implemented. We shall keep clients informed of developments.

[For more details contact](#)

**Thowheetha Shaah** - 020 8290 7331 [tshaah@judge-priestley.co.uk](mailto:tshaah@judge-priestley.co.uk)

## Self-build homes are now 'becoming more affordable'

The government says building your own home is becoming more affordable following the introduction of new measures to support the self-build industry.

In the Budget, the Government announced it would create a £150m repayable fund to help people who want to custom build. This will help to service up to 10,000 plots.

Ministers are also looking to extend the Help to Buy scheme to cover

custom built homes. In February, the Government helped self-builders save thousands of pounds by exempting them from the Community Infrastructure Levy payable to local councils.

Planning Minister Nick Boles said that working with a specialist developer can be a cheaper way into home ownership. He said: "The reality is that custom building a house can be a cheaper way to provide a home for you and your family.

"We all know we need more homes and this could be a very good option for many more people wanting to get on to the property ladder."

Only around 8-10% of homes in the UK are custom built. In Germany, France and Italy around 60% of homes are self-built while in Austria the figure rises to 80%.

[For more details contact](#)

**Madelaine Henwood** - 020 8290 7413  
[mhenwood@judge-priestley.co.uk](mailto:mhenwood@judge-priestley.co.uk)



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### Meet the team



Mark Oakley



Thowheetha Shaah



Pam Bachu



David Chandra



Madelaine Henwood



Neil Cuffe



Steve Taylor



Tony Clarke



Paul Stevens



Lucy Rudd

For further information **T.** 020 8290 0333 **F.** 020 8464 3332

**Justin House, 6 West Street, Bromley, Kent BR1 1JN**

**E.** [info@judge-priestley.co.uk](mailto:info@judge-priestley.co.uk)

[www.judge-priestley.co.uk](http://www.judge-priestley.co.uk)

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