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

SUMMER
2021



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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.

Got something on your mind?
... give us a call or email us.

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.

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Judge & Priestley announce merger with Cunningham Blake Solicitors (Blackheath)

Judge & Priestley LLP, the Bromley based solicitors firm, is delighted to announce that the merger with Cunningham Blake Solicitors, based in Blackheath, has been successfully completed, with effect from Monday 12th April 2021. The merged practice will continue to trade from Cunningham Blakes existing offices located in Blackheath Village at 1 Spencer Yard, Blackheath, London, SE3 0DE, under the name of Judge & Priestley Solicitors.

Cunningham Blake partner Matthew Blake will work for the new business as a Consultant and the other Cunningham Blake staff, including Conveyancing manager Michael Cornwall, will also remain in the new practice.

Steven Taylor, Managing Partner at Judge & Priestley, commented; "Many thanks to the staff from both businesses, who have worked so hard to bring these two long established and highly respected local practices together. We are very excited to be adding an office in the heart of Blackheath Village to our business and look forward to meeting and working with Cunningham Blakes clientele and delivering expert legal advice and support to the wider community of Blackheath and surrounding neighbourhoods in South East London".

Judge & Priestley LLP is based in central Bromley, with its head office at 6 West Street, Bromley, BR1 1JN. The practice offers



Partners and staff from J&P and Cunningham Blake in Blackheath; L to R – Steven Taylor, Kelly Sharman, David Chandra and Madelaine Henwood (all J&P), Matthew Blake, Michael Cornwall and Ken Cunningham (Cunningham Blake).

a comprehensive range of legal services to both individuals and business clients from offices in Bromley, Beckenham and now Blackheath. It is listed in the Legal 500 as a leading practice in the South East region.

For more information please contact Nita Newsome: nnewsome@judge-priestley.co.uk

Judge & Priestley announce major round of partner promotions

Judge & Priestley LLP, the fast-growing South-East London solicitors practice, based in Bromley, is pleased to announce a significant round of partner promotions at the start of the 2021 / 2022 financial year.

Most significantly, five previously salaried members have been promoted to the equity members senior team. Brian Tan (Private Client), Kavitha Rajah (Residential Property), Kelly Sharman (Family), Louise Hyland (Residential Property) and Uday Patel (Debt Recovery and Commercial Litigation) have all been promoted to equity holding members as of May 2021.

Steven Taylor, Managing Partner at Judge and Priestley, commented; "All five have been partners for a while now and, during this time, have shown that they can make a valuable contribution as full members of the Senior Management



(Left to right: Steven Taylor (Managing Partner), Uday Patel, Kavitha Rajah, Louise Hyland, Kelly Sharman, Brian Tan and Peter Taylor).

Team. These are exciting times for Judge & Priestley as we continue to grow and develop new areas of work. I am certain that the firm will benefit from the additional management skills that all five can bring".

Additionally, Peter Taylor (Private Client), has been promoted to a salaried member within the practice. David Chandra, Head of Wills,

Trusts and Probate, commented; "Peter's attitude and contribution has had a positive impact of the continued growth of the department. This is a well-deserved promotion and we wish him every future success."

For more information on this story, please contact Nita Newsome, Marketing Manager: nnewsome@judge-priestley.co.uk

Wills are a tax efficient way to donate to charity

Britain has an enviable record of supporting good causes, yet many people are still unaware that they can use their wills to give to their favourite charities and gain some tax benefits at the same time.

A survey carried out by the Law Society showed that well over half (59%) of those surveyed said they did not have a will. Just 29% said they have an up-to-date will which reflects their current intentions.

Law Society former president David Greene added: "Our research indicates that people's charitable habits during their lifetime don't always translate into their will.

"Many may also be unaware that any

donations given to charities in wills are tax-free.

"For those with larger estates, leaving 10% or more of their estate to charity, can also have tax benefits. An expert solicitor will be able to advise on how people can best donate to charity in their will and if these tax benefits apply.

"More broadly, the fact remains that the overwhelming majority of the UK public do not have an up-to-date will.

"If someone dies without making a will – also known as dying intestate – the law determines how much of their estate their spouse, children and other relatives will inherit. Under intestacy laws, unmarried partners, charities and close friends cannot inherit, meaning loved



ones could be left with nothing. Writing a legally valid will with an expert solicitor, ensures people's estates are inherited exactly as they would choose."

Please contact us for more information about the issues raised in this article or any aspect of wills and probate.

Commonhold to give leaseholders more control

The government is planning to give leaseholders more control over their homes by developing a new collective ownership system known as commonhold.

The commonhold model is used widely around the world and provides a structure for homeowners to collectively own the building their flat is in, with a greater say on their building's management, shared facilities and related costs. They are in control of their building through a 'commonhold association'.

There are no hidden costs or charges, preventing some of the unfair practices currently seen in some leaseholds.

The newly formed Commonhold Council will manage the system with the aim of making home ownership fairer and more secure.



Housing Secretary Robert Jenrick, pictured below, said: "We are taking forward the biggest reforms to English property law for 40 years – and the widespread introduction of commonhold builds on our work to provide more security for millions of existing leaseholders across England, putting an end to rip-off charges and creating a fairer system."

This builds on the announcement in the Queen's Speech, where the government set out its intention to restrict ground rents for new residential long leases to a peppercorn. Earlier this year, the government also announced changes that will mean that any leaseholder can extend the lease on their home by 990 years, on payment of a premium, and will no longer pay any ground rent to the freeholder.

A Law Commission report said last year that the leasehold system was not working for home owners. Ministers hope these changes will make it fairer, cheaper and simpler.

We shall keep clients informed of developments.

Please contact us if you would like advice about the legal aspects of buying or selling a home.

Court corrects error in will to restore deceased's wishes

A court has corrected an error in a man's will to reinstate his original intention as to how his estate should be divided among family members.

The issue arose because the man had made a will in 1998 dividing his estate into 52 parts to be given to different named beneficiaries from his deceased wife's family.

A codicil executed in 2005 deleted two individuals as beneficiaries of six parts each and redistributed four parts to two charities. The effect of the codicil was that eight parts were left undistributed. This created a partial

intestacy, meaning the eight parts would be outside the will and so would be distributed to relatives in a way laid down by law.

The executrix of the will said this change was due to a clerical error and the deceased had not intended that parts of the estate should be subject to intestacy rules.

She asked for the error to be rectified under the Administration of Justice Act.

The court held that it could rectify the will if it were satisfied that there had been an error or a failure to understand

instructions to carry out the deceased's intentions correctly.

There was evidence that he and his wife had taken care to distribute their estate to several named people, which suggested that considerable attention had been given to how the estate would be distributed.

The will was therefore rectified to divide the estate into 44 parts to be given to the named beneficiaries.

Please contact us for more information about the issues raised in this article or any aspect of wills and probate.

Vouchers to enable couples to use mediation

Separating couples will soon be able to apply for £500 vouchers to pay for mediation to help them settle disputes without having to go to court.

Mediation is often a quicker and cheaper way of resolving disputes, which can spare families the trauma of attending court and the impact this can have on children.

It involves couples working through their differences – led by a trained and accredited mediator – to reach agreements they are both prepared to accept, such as how to split assets or arranging child contact times, rather than have a judge decide for them. They can then ask a court to consider their agreement and make it into a legally binding and enforceable court order.

Research suggests that more than 70% of those using these services will resolve their issues outside of courtroom.

The scheme is for families seeking to resolve private law or financial matters relating to children – for example child arrangement orders or financial disputes regarding a child's upbringing. If a case is eligible for vouchers, the mediator will automatically claim back the contributions from the government.

The move follows other new measures to help reduce family conflict, including introducing new laws to spare divorcing couples the need to apportion blame for the breakdown of their marriage.

What is family mediation?

- Family mediation is a process in which an independent, professionally trained mediator helps couples work out arrangements for children and finances where there is a dispute.
- The mediator is not there to tell each side what to do but can help them reach an agreement while trying to improve communication between them. They aren't there to try and keep couples together but help them find a practical way forward after a relationship has broken down.
- Mediation allows the parties to stay in control, as no one will be forced to do anything or agree to anything against their wishes.



Unlike in a courtroom both partners can agree to a solution rather than have a judge decide for them.

- The mediator will work with the parties, either together or separately, to help them find a solution which works for them both.
- Mediation can be less stressful than going to court, especially for children who are involved in proceedings. It is also cheaper than going through the court process, and it is also confidential unlike proceedings in the family court.
- Currently, funded mediation is available only for those who meet the financial requirements through the Legal Aid scheme. If you don't qualify then you will need to pay for mediation sessions.

The scheme will be administered by the Family Mediation Council on behalf of the Ministry of Justice.

Further information about the scheme and how it works will be provided to parties at their Mediation Information and Assessment Meeting (MIAM), which all those involved in family cases are required to attend, unless they have a valid exemption.

We shall keep clients informed of developments.

Please contact us if you would like to know more about mediation or any aspect of family law.

New 95% mortgages now available for home buyers

The government's new scheme to help people buy a home with a 95% mortgage has now come into effect.

It means buyers can get on the property ladder even if they only have a 5% deposit. The mortgages are available to both first-time buyers and existing homeowners for houses costing up to £600,000.

The government will offer lenders the guarantee they need to provide mortgages that cover the other 95%, subject to the usual affordability checks.

The Covid-19 pandemic has led to a reduction in the availability of high loan-to-value (LTV) mortgage products, particularly for prospective homebuyers with only a 5% deposit. The new scheme is intended to address that problem.



The mortgages are now available from lenders including Lloyds, Santander, Barclays, HSBC, NatWest and Virgin Money.

The government will compensate the mortgage lender for a portion of the net losses suffered in the event of repossession. The guarantee will apply

down to 80% of the purchase value of the guaranteed property.

The guarantee will be valid for up to 7 years after the mortgage is originated; evidence shows that loans are unlikely to default after such a period has elapsed.

The scheme is intended as a temporary measure. It will be open for new mortgage applications until December 2022, in line with the government's view that the current scarcity of high loan-to-value lending is primarily a response to the pandemic rather than a symptom of a longer-term structural change in the mortgage market.

Please contact us if you would like advice about the legal aspects of buying or selling a home.

Complex inheritance tax 'needs to be simplified'

The Treasury has agreed to make changes to the administration of Inheritance Tax following complaints from the public that it is too complex, old fashioned and needs to be simplified.

The announcement comes after more than 3,500 people responded to a public consultation carried out by the Office of Tax Simplification (OTS) on behalf of the government.

Many of those who responded said they were being asked to fill in complicated forms even when the relative who had died had only left a small amount.

Some of the main issues highlighted in the OTS review were that completing forms is hard and it can be difficult to work out which one to use, the amount of information required can be disproportionate and the guidance



provided can be unnecessarily difficult to navigate. Angela Knight, OTS Chairman, said: "Inheritance tax is both unpopular and complicated. The basic design of the tax itself is for government, but at the OTS we can address that most frequent

of all comments, at least make it easier for the families to fill in the forms".

"Improving the administration of this tax in these ways is important as having to deal with the current process can seem overwhelming to people at a time when they are both preoccupied and distressed."

In response to the review, Jesse Norman, Financial Secretary to the Treasury, said the government will change reporting regulations so that from 1 January 2022, over 90% of non-tax paying estates each year will no longer have to complete Inheritance Tax forms for deaths when probate or confirmation is required.

Please contact us if you would like advice about Inheritance Tax planning or any aspect of wills and probate.

Father loses custody battle amid Covid complications

A father has failed in his attempt to be awarded full custody of his son in a case made complicated by the Covid-19 pandemic.

The boy's father was a US citizen; the mother was British. Their son was born in England in January 2017.

Some months later, the mother and son started living in the US with the father. However, in 2019 the couple separated.

They signed a marital settlement agreement governed by US law, which included arrangements for the mother and son to relocate to England on finalisation of the divorce, and for the boy to attend school in England and

stay with the father in the US during school holidays.

The divorce and the agreement were approved by the US court in January 2020. Three days later, the mother and child moved to England.

The mother booked flights for them to travel back to the US at Easter 2020 to visit the father in accordance with the marital settlement agreement, but the flights were cancelled because of the Covid pandemic.

The father began proceedings seeking full custody of the son on the grounds that the mother was in breach of the marital settlement.

The High Court refused the application and ruled in favour of the mother.

It held that she had fully intended to comply with the agreement but was prevented by the pandemic. She clearly had reasonable grounds not to travel at that time on account of the impact of Covid.

Furthermore, the son had acquired habitual residence in England, as he had developed the requisite degree of integration in a social and family environment.

Please contact us for more information about the issues raised in this article or any aspect of family law.



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