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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.

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.

Judge & Priestley
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We welcome Family Law Associate Solicitor Steve Johnston

Steve Johnston joined Judge & Priestley in December and brings with him years of experience of working in all aspects of family law.

Steve specialises in family law and joins us from a highly-respected niche family firm with considerable experience in medium and high net-worth financial cases and dealing with complex disputes regarding children.

Steve is a member of Resolution and is committed to resolving family disputes constructively and empathetically.

In suitable cases, Steve is also an advocate for making use of Arbitration or mediation as a more efficient and cost-effective way of resolving disputes compared with the Court process.

Steve has also been active outside of work helping establish the East London branch of Families Need Fathers and running an advice surgery there as well as being a family law solicitor advisor at Toynbee Hall, one of the oldest free advice services in the UK. He joins the Bromley Citizen Advice Bureau roster of advisors from January 2017.

Steve replaces Thowheetha Shaah who we say farewell to after being an integral part of the firm and a real asset to our family department for 11 years.

If you would like a free initial consultation on a family matter with Steve Johnston please call him on 020 8290 7331 or email sjohnston@judge-priestley.co.uk



Report highlights outmoded media stereotypes about domestic violence

A report into how newspapers report domestic violence has caught the eye of our family solicitor, Steve Johnston.

The University of Hertfordshire report suggests that over a ten year period, there has been no discernible change in the medium or the message when it comes to one section of the press at best trivialising domestic violence and often using it just for entertainment. You can read the report here:

<https://theconversation.com/blame-the-victim-domestic-violence-as-covered-in-the-sun-and-the-guardian-69169>

Steve tracked down one of the report's authors, Dr Michele Lloyd, Senior Lecturer at the School of Education at the University, for a chat about the report.

SJ: Michele, you highlight a recurrence of stories where the language puts the blame for the relationship going wrong, and even the violence, on the victim.

ML: Yes, there has been in the Sun at least, a preponderance of stories giving the public the impression that partner violence is committed by those who are made to "snap" by the victim, whether

it is an affair or something else. The presentation is "it takes two" for violence to happen.

SJ: You don't get that element, or it seems only rarely, with the reporting of stranger violence. What sort of effects do you think flow from the media saying "the victims share the blame"?

ML: For one thing, I suspect it's why we end up with women undergoing on average 35 incidents before reporting domestic violence. (This figure comes from a crime study quoted in a 2011 speech that Keir Starmer, the Shadow Brexit Secretary, made when he was Director of Public Prosecutions.)

SJ: I read about the work going on to get society to accept and acknowledge how serious domestic violence is. The progressive media seem to me to get that and highlight those efforts. Do you think society is making much headway in changing the way we think about domestic violence and protecting victims, or even making them feel they can be safe accessing help and advice?

ML: In some respects, yes. In general, I think we need to focus on how difficult

it can be for someone to escape from partner violence. There are a myriad of issues they have to contend with and overcome, such as their complex feelings for the abusive partner, or there may be children, the parties' finances are interdependent and their lives are interlinked in so many ways, or sometimes there are feelings of shame or embarrassment at not wanting other friends and family to find out.

Domestic violence is a long way from being a secondary or less important type of violence. If these points are more widely understood, and the media has an important role to play in that, I think we start to tackle the incidence of partner violence and do more to protect potential victims, because society as a whole will become much readier to disavow it and not to tolerate it.

SJ: Thank you Michele, pleasure speaking with you.

If you are or you know someone affected by these issues or you are having relationship issues and you need to talk to someone about your options for separation, please call us in complete confidence on 020 8290 7331 for an appointment with our family lawyer Steve Johnston.

Carey Mulligan promotes awareness of dementia

The actress Carey Mulligan has been appointed the first UK Global Dementia Friends Ambassador by the Alzheimer's Society and the Health Secretary Jeremy Hunt.

The star of films such as *Suffragette* and *The Great Gatsby* aims to inspire and engage world leaders to promote a better understanding of dementia, a condition afflicting her grandmother.

Her first action in her new role was to mark World Alzheimer's Day by delivering a Dementia Friends session to a youth group in Los Angeles to spread greater awareness among young people about the condition.

She said: "My Nans has dementia and I have experienced first-hand how devastating it can be. It affects everyone differently, and it's so important that everyone affected by the condition is treated with the respect and dignity that they deserve.

"The first step involves educating people and breaking down stigma – not just on our doorstep, but across the world. I've seen my mum doing this in her role as a Dementia Friends Champion - now I'm honoured to become the first Global Dementia Friends Ambassador and help the Alzheimer's Society and the government change global attitudes towards dementia."

The involvement of stars like Mulligan shows the growing problem of dementia and the importance the government and health officials now attach to it.

People concerned about their future health may take comfort from being able to protect their interests by setting up lasting powers of attorney.

These are legal documents that enable you to appoint someone you trust to make decisions on your behalf if you ever lose the capacity to make such decisions for yourself. You can appoint deputies to look after your financial matters or health and welfare issues, or both if you so choose.

[For more details contact](#)

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Breastfeeding mothers win sex discrimination case

Two women have won a sex discrimination case against the airline EasyJet after it failed to accommodate their needs as breastfeeding mothers.

Cabin crew employees Sara Ambacher and Cynthia McFarlane were refused permission to express their milk during flights.

They then requested that they be allowed to do ground duties or that their flights be limited to eight hours so that they could express milk as advised by their doctors to prevent infections such as mastitis.

The company allowed them to do



ground duties for six months but no longer. It also refused to restrict their shifts to eight hours because unforeseen flight delays could lead to them having to work beyond that time.

The Employment Tribunal in Bristol heard that managers searched the internet for "breastfeeding risks" before suggesting a number of solutions

that were unworkable. EasyJet then disregarded the advice of four doctors, failed to carry out its own risk assessment and failed to send the women to be assessed by occupational health professionals.

The tribunal ruled that the company's failure to accommodate the two women amounted to indirect sex discrimination and breached the Employment Rights Act. It was also discriminatory to effectively limit the time the mothers could breastfeed to six months.

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Man wins the right to buy his deceased partner's home

A 91-year-old man has been granted the right to buy the home he shared with his partner because she had not made reasonable provision for him in her will.

The court heard that the man had lived in the home with his partner for 20 years. She had made a will leaving the house and all her estate to her daughter, and nothing to him.

After she died, her daughter began legal proceedings to gain possession of the house as quickly as possible. The man said that he and his partner

had expected him to die first and so she had not included him in her will. He accepted there was never any understanding that he would have an interest in his partner's estate.

He had sufficient means to buy a house if necessary but he wished to remain in the home where he had lived with his partner because he was in poor health and was assisted by his neighbours.

The recorder concluded that he should be given the option to purchase the house from the estate for £385,000.

That figure was based on a valuation of the property obtained by the daughter. A joint expert had concluded that the property was worth £340,000.

The High Court has upheld the decision. It held that the recorder had been entitled to conclude that the woman's will did not make reasonable provision for her long-term elderly partner because it did not allow him to remain in their home.

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Plans to streamline buying and selling of homes

New proposals have been put forward to streamline and speed up the process of buying and selling a home.

The new ideas are contained in a discussion document called Modernising the Home Moving Process, which has been drawn up by the Conveyancing Association (CA).

The White Paper focuses particularly on the benefits to be gained from creating greater certainty far earlier in the home moving process. It suggests a number of ways in which this can be achieved including:

- centralising the identity verification of the parties to reduce the risk of fraud and money laundering
- requiring a legal commitment on offer to reduce transaction failures
- requiring completion monies to be sent through the day before completion
- providing a reliable lending decision-in-principle based on a



'hard' credit report without impacting on the applicant's credit score.

Eddie Goldsmith, Chairman of The Conveyancing Association, said: "Since the beginning of the recovery of the property market, conveyancing times have steadily increased from eight weeks – from offer to completion – up to the latest estimate, which places transaction times at 13 weeks.

"For leasehold transactions the length of time is often greater.

"It is against this backdrop that the CA decided to embark on a project to identify why these delays occur, how the process works in other countries, and by undertaking research and talking to as many stakeholders as possible, to identify potential solutions which can get us to a far better place for all concerned."

The proposals will be discussed in detail over the coming months. We shall keep clients informed of developments.

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New scheme to promote arbitration in family disputes

A new scheme has been launched to encourage the use of arbitration in family disputes involving the welfare of children.

The Family Law Arbitration Children Scheme was set up four years ago to help families resolve financial issues. Now the Institute of Family Law Arbitrators, which runs the scheme, wants to extend it to cover disputes concerning parental responsibility.

The kind of issues covered include where children should live, how much time they should spend with each parent and relocation in England and Wales. The scheme has been developed by a multi-disciplinary team of leading family lawyers.

The Chair of the Institute, Lord Falconer, said: "The new children arbitration scheme will enable couples to resolve disputes more quickly.

"It will also guarantee confidentiality where that is required or necessary. These are all important ingredients to minimising conflict and supporting the best interests of children."

Nigel Shepherd, Chair of the family law group Resolution, said: "Since its launch, arbitration has provided couples with a speedy, flexible and cost-effective way to sort out their finances where they cannot reach agreement."

Arbitration has helped thousands of families resolve complicated issues in a



way that reduces stress and heartache for all concerned, particularly children.

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Applications for LPA 'living wills' double in two years

The number of applications for lasting powers of attorney (LPA) has doubled in the last two years, according to research carried out by The Times.

It says half a million LPAs were set up last year by people seeking to protect their interests in case they develop illnesses like dementia at some point in the future.

LPAs, which are sometimes referred to as living wills, enable you to appoint someone you trust to make decisions

on your behalf if you lose the capacity to do so for yourself. You can have an LPA to cover your financial matters or personal welfare issues, or both. The same person can cover both functions or you can appoint different people if you prefer.

It's likely that the number of applications for LPAs will continue to increase over the coming years as the population ages and people become more concerned about their health and mental capacity.

The system is administered by the Office of the Public Guardian, which ensures safeguards are in place to protect your interests.

LPAs should be set up with the help of a solicitor to ensure they fully meet your needs and provide all the necessary safeguards to give you peace of mind.

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Family disputes over inheritance continue to rise

The number of family disputes over wills continues to rise, according to new research.

A report in the Times newspaper says there was an 11% increase last year in the number of people challenging their parents' wills in the High Court. It's thought that an increasing number of cases are also being settled out of court.

Lawyers say there could be several reasons for the increase but it's likely that the changing nature of family structures is an important factor. The rising number of remarriages and second relationships has led to more complex family arrangements.

Step-children may assume that they are entitled to inherit from step-parents and are prepared to challenge a will if they don't get as much as they expected. Conversely, children from a first marriage may feel step-children from a second relationship have been left too much and so they mount a challenge on that basis.

There is also a tendency for extended families to live far apart and have little personal contact. This can make them more willing to challenge each other over family assets.

Rising house prices also mean that substantial sums are now at stake, giving family members a greater incentive to dispute a will that they believe is unfair to them.



The best way to reduce the risk of family disagreements is to make sure your will is properly drawn up with the help of a solicitor. It may also help to explain your decisions to family members, especially if you fear your will may disappoint someone.

People who feel they have not been properly provided for in a will should seek advice from a solicitor. Most cases can be settled out of court through mediation, which is much less expensive and far less stressful than court action.

For more details contact

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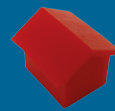
Father and son in legal dispute over ownership of house

When family members buy a property together it is advisable to draw up documents outlining the extent of each person's share, together with their rights and responsibilities.

Failure to do so can lead to disputes as occurred in a recent case before the Court of Appeal.

It involved a father and son who decided to buy a house where they both could live. The property was put in the son's name and both contributed towards the deposit. The mortgage payments were then paid by the father.

Buying and selling a home



Several years later, the father travelled to India where he suffered a stroke. While he was away, the son sold the house leaving his father homeless.

When the father returned, he sought a declaration that he had a beneficial interest in the property.

The judge found that the evidence of both parties was unreliable and that

there was little documentary evidence. She inferred from the completion statement for the purchase of the property that the father had contributed between £88,000 and £100,000 of the purchase price of £139,000.

On that basis she decided that the father was entitled to a 70% interest.

The Court of Appeal has upheld that decision.

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