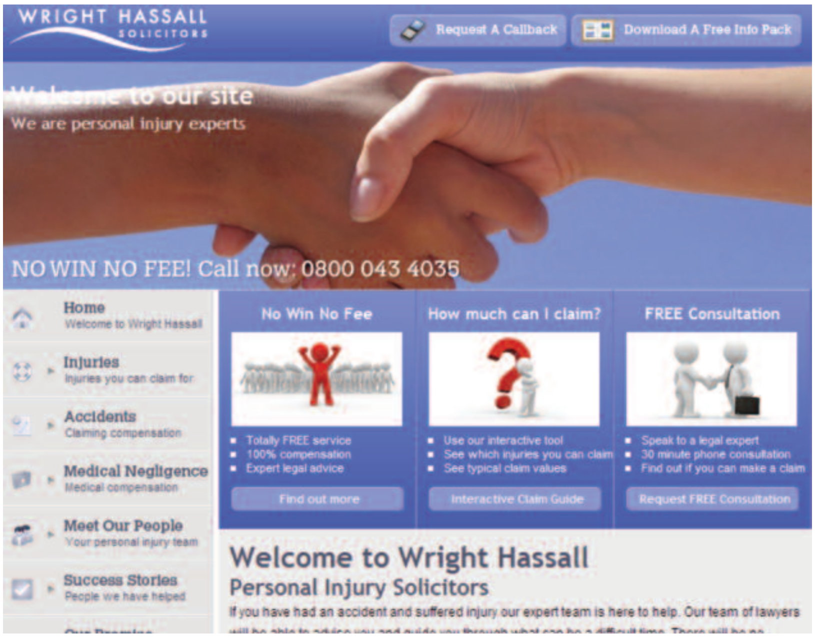
New website launched!



Wright Hassall's personal injury and medical negligence department has launched a new website!!

The site, pictured left, is designed for people who have suffered an accident or injury or have experienced poor medical treatment and think that they may have a case to claim compensation.

Head of the department, Jeanette Whyman, said "Our new website is a really useful interactive tool for people who would like to find out more about the claim procedure and potential level of award.

"We also have a live messenger chat facility which enables the user to ask a qualified lawyer a query and get a quick response.

"Combined with interactive guides and real success stories from our clients, we hope that this website will make the first steps to making a claim a much easier process."

www.accidents-and-injuries.co.uk

Free advice on setting up the Government's new parent-run schools

Coventry could be one of the first places to take advantage of the Government's parent-run schools programme, after Wright Hassall launched a new service.

The new coalition Government announced legislation to allow parents and teachers to establish and run new, state funded schools in the Queen's speech.

It will give parents the chance to decide how a school is run, where it is based, draft a curriculum and set a mission statement.

A business plan, which will need the involvement of lawyers and accountants, will be submitted to the education secretary and, if he approves, funding will be given per pupil admitted.

Wright Hassall is willing to provide the first three groups of people free advice on what is required to set-up a new school so that 'trailblazing local people aren't afraid of exploring the options'.

Steven Janes, partner, said: "This is new ground for everyone so if there are parents and teachers who are enthusiastic about this new opportunity, we're ready to explain what is required.

"Judging from the early reaction to the news, there are people who are excited by the chance to create better state schools.

"We're looking forward to being involved in these groundbreaking early projects, and the best way to encourage people to take that first step is to offer a free helping hand through the early stages."

For a no-obligation chat about how we can assist you to set up a new parent and teacher run school under the Government's new programme, please contact Steven Janes.

Thank You!!

We'd like to say a big thank you to all our readers who responded to the survey in the last edition of Legal News.

We received over 200 responses which enabled us to improve our understanding of how you buy legal services. Your responses also gave us a really useful insight into what you think we do well and what we could improve on.

At Wright Hassall we are constantly striving to improve our services and we welcome all feedback. If you have any comments or suggestions for us please email them to tara.king@wrighthassall.co.uk.

Congratulations to Emma Willoughby from Shipston-on-Stour who was the lucky winner of the voucher for Wildes Wine Bar.

When planning permission is not required

Most people would probably assume that planning permission is needed when contemplating home extensions, improvements or alterations. However, this is not necessarily the case. In October 2008, a number of changes to 'PD rights' (General Permitted Development Order 1995) meant that some development of the home can be carried out without the need for planning permission. However, Government guidance relating these changes were neither formally consulted on nor released for public consumption. So here, to help you understand your entitlements, is a brief guide to the 'development tolerances' permitted by the Act.

Rebecca Mushing explains the circumstances in which you can make home improvements without the need for planning permission.

Ground Area

For the works to be permitted under this tolerance, any development or extension must not exceed 50% of the total area of the curtilage (i.e. the garden and grounds surrounding a house). If it does exceed 50% planning permission will be required, below 50% PD rights kick in and no permission would be required. In addition, the extent of the works cannot exceed more than 50% of the original footprint of the house (i.e the area covered when it was first built). Therefore, any subsequent extensions or additions would count towards the 50% allowance. As an example, a conservatory that is 20% of the original footprint of the house would leave 30% left of permitted footprint for development without permission.

As a general principle, providing the works are just maintenance or improvement and do not materially affect the outward appearance of the house, planning permission may not be required. Where more involved work is being undertaken, then the Permitted Development Order may grant permission for the works.

However, do note that PD rights do not apply where there are blanket restrictions in place such as those relating to listed buildings, designated land (such as Conservation Areas) or where Article 4 direction can be issued by the local authority. Demolition and reconstruction does not qualify as maintenance and improvement and neither does conversion of a dilapidated or derelict building.

Height of the building

Providing works to the house do not exceed the highest part of the existing building (normally the ridge line of the main roof), planning permission is not required.

Proximity to Highway

Providing works do not extend beyond the principal wall of a house fronting onto a highway, planning permission will not be required. The front of the house is usually defined as the principal elevation.

There are obviously exceptions to this principle depending on how the house is angled to the highway and other factors such as how far back the house is set from the highway. As with all these tolerances, if in doubt, check.

Single Storey and side extensions

Strict rules apply to the distances to which a single storey extension for a detached house can extend both outwards and upwards. Rules also apply to permissible distances from the property boundary. Similar calculations also apply to side extensions, the total width of which must not exceed more than half the width of the house.

Cubic Content

The cubic capacity of a house includes any pre-existing building within the same curtilage that comes within 5 metres of the proposed extension. This could include a summer house or outbuilding.

It should be noted however that verandas, balconies and raised platforms do not fall within permitted development rights and would require planning permission.

You can find more details on what is and isn't permissible and the actual measurements and definitions involved by visiting http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082362_en.pdf.

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First time buyers exempt from Stamp Duty

The Chancellor announced in his Budget on 24 March 2010 that Legislation in the Finance Bill 2010 will introduce relief from Stamp Duty Land Tax (SDLT) for purchases of residential property up to £250,000. To qualify, the purchaser or all of the purchasers must be first time buyers and intend to occupy the property as their only or main home. This relief is presently time-limited to two years.

The new relief will be available for purchases of a major interest in residential property to be occupied as an only or main residence. Non-residential or mixed use property does not qualify. It is not open to a purchaser who has, either alone or with others, had or previously acquired a major interest in land which includes residential property or an equivalent interest in land situated anywhere in the world.

The transaction must not be linked with any other matter for SDLT purposes unless it is an acquisition of a separate interest associated with the same residence (e.g. a separate lease of a garage).

More information can be found on the website of HM Revenue & Customs; visit http://www.hmrc.gov.uk/sdlt/calculate/reliefs-exemptions.htm

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The seven ages of planning

Advising clients on their legal problems and estate planning can be very varied. Whilst attitudes and priorities differ between individual clients, their age and family circumstances can offer similar themes.

THE EARLY YEARS

The purchase of a first house is an ideal time to consider making a will. First time buyers often have some financial assistance from parents to get onto the property ladder. A will can ensure that, in the event of death, the property will revert back to the parents or other family members.

Care should be taken to reflect contributions to the property and whether these should be structured as a gift or a loan given by the parents.

GETTING TOGETHER

Moving in or sharing property with a partner can raise some awkward questions. Will the person moving in or co-habiting pay towards the mortgage? Will they contribute to a joint account? What happens if one partner moves out? A straightforward co-habitation agreement detailing how financial contributions are made could resolve any issues that may arise in the future.

If home improvement is funded by the co-habitee they should insist on some form of Declaration of Trust being drawn up to set out how their contribution to the property is determined and how any sale proceeds are divided.

SETTLING DOWN

On marriage any existing wills are revoked. If property is purchased in joint names advice should be taken as to how this should be structured. When a marriage breaks down the division of assets is treated very differently from co-habitees breaking up.

It may not be romantic but couples should consider a pre-nuptial agreement. If there is a great inequality of wealth, they may wish to set out how the finances are divided on any breakdown. Although pre-nuptial agreements are not legally binding, family courts are giving them more and more weight. Both parties will need to provide full disclosure of their assets and take legal advice.

Nominations for death in service benefits and retirement pension plans should be considered.

STARTING A FAMILY

The arrival of children should prompt a review of wills. Guardians should be appointed and life insurance and income protection insurance should be considered.

Whilst children are young, a stakeholder pension policy can be opened and contributions made for the children which will allow a healthy pension pot to grow. Although they will not earn an income, any contributions to their pensions will attract basic rate tax relief.

BUILDING A NEST EGG

As the family matures hopefully your income will increase and your assets grow. Inheritance tax may become an issue and wills should be amended to allow assets to pass down to the children in the most tax effective manner. Death in service and pension lump sums should be reviewed and structured to pass to the surviving spouse tax efficientiently. Life policies should be held in trust to provide flexibility. Business owners should consider appropriate succession planning. If they were to die, is there appropriate planning in place for their share of the business to be bypassed to the family or bought out by the other shareholders or partners?

If one partner is the major earner, ownership of assets can be structured to ensure income tax liabilities are minimised. Assets can be transferred between spouses to produce greater income for the lower income earner and to utilise Capital Gains Tax annual allowances.

SILVER SURFERS

Once the children have grown up and flown the nest, it is time to live a little! Hopefully incomes will be maximised and mortgages will be (almost) paid off. Although you may be busy enjoying yourself, you ought to review your will and make a Lasting Power of Attorney in case your health or mental capacity deteriorate. Your assets can be protected from being used towards long term care fees.
If you want to help your children or grandchildren financially, any gifts should be considered carefully. Gifts may be vulnerable should your child or grandchild become divorced or suffer any financial difficulty. Payments can be structured either by gift or by loan to apply protection. To ensure this does not have any adverse tax implications, a gift into trust can achieve protection while dealing with it in the most tax efficient manner.

IN THE AUTUMN YEARS

As time rolls on you need to ensure that your affairs are in order. If you lose your loved one, you need to decide how their estate is dealt with. Their wills may set up a life interest trust or nil rate band discretionary trust for inheritance tax mitigation purposes and you will need advice on how best to structure these trusts to provide protection for your assets. Long term care may be a possibility and assets should be reviewed to ensure you have planned appropriately. Joint accounts should be avoided for older couples whose health may deteriorate.

If your loved one goes into care, your will should be reviewed to ensure that any inheritance you leave to them will not be used in care fees.

Appropriate advice can avoid expensive disputes and reduce the anguish at critical times during your lifetime. The right planning at the right time invariably pays off in the long run.

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The future of funding a claim

Nearly ten years ago the Woolf reforms were to herald in a civil litigation system in which part of the over-riding objective was "saving expense". In fact, since then the costs of litigation have grown year on year and in November 2008, Lord Justice Jackson was appointed to conduct a thorough review of the way litigation is funded.

Sarah Gold discusses the potential financial implications of the proposed Jackson reforms for Personal Injury Claimants.

The report is very long, some 584 pages, and it is out of the scope of this article to go into the recommendations in detail but among the proposals which have caused most comment are those relating to success fees and the ATE "after the event" insurance premium.

If you are unfortunate enough to suffer an injury in an accident, you can fund your claim either by a 'before the event' legal expenses insurance policy or a conditional fee agreement "CFA" popularly known as "no win, no fee".

CFA's frequently carry a success fee which allows your solicitor to apply a percentage uplift (up to 100%) to their basic charges which the Defendants pay, if the case is successful. The exact percentage is calculated according to the risk of the case; a success fee in a straightforward road traffic accident being lower than that in a medical negligence case.

Alongside the CFA, you will probably also be advised to take out an 'after the event' insurance policy "ATE" to protect you in case you lose your case at Court and a Judge orders you to pay the Defendant's costs.

At present if you are successful both the success fee and the ATE premium are recoverable from the Defendants. Lord Justice Jackson proposes to change this, making them the responsibility of the Claimant.

The reason for this change is that Lord Justice Jackson believes because Claimants are insured, win or lose, this encourages spurious claims, pushing up the costs of litigation.

If a change is made Lord Justice Jackson proposes to assist Claimants by increasing compensation for injuries across the board by 10% and capping success fees at 25%.

Perhaps this all sounds very reasonable until you apply it to the real world and here I have a real sense of déjà vu.

I have been in practice since 2000 and remember the bad publicity associated with Claims Direct and The Accident Group which arose when referral fees and interest on insurance premiums were deducted from Claimants' compensation.

Now imagine a scenario in the future when the Jackson reforms have been introduced. A Claimant, possibly an elderly lady struggling on a state pension, slips on a grape in a supermarket, fracturing her leg. She is awarded £8000 for her injury by a sympathetic District Judge. From her compensation she might have £850 deducted for the ATE premium and up to 25% for her lawyers success fee. Instead of receiving £8000 she actually receives £5150. I suspect the press may be critical of such an outcome and on a personal level, I think it is fairer for large insurance companies to bear this cost.

It remains to be seen whether or not the Jackson reforms are implemented, but whatever the future of funding a claim, you can be reassured that the team at Wright Hassall will guide you through a sometimes daunting process, and obtain the best level of compensation for you.

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Redundancy: frequently asked questions

Q. I have been employed for 18 months and have been made redundant. My employer is not paying me any redundancy pay; have I got a claim?

A. Employees will not receive statutory redundancy pay unless they have 2 continuous years of service with their employer. However, your employer should ensure it pays you your notice pay and any accrued holidays. Some employers may choose to offer you a further payment for loss of employment but this is not required by statute.

Q. I work for a large company and I was made redundant last week without any notice. There are 5 others who do similar work and we all work the same number of hours on a shift basis but I was the only one made redundant. I feel that I was chosen as I had been off sick more often than my colleagues due to a knee problem. Is my redundancy fair?

A. Your employer should have met with all employees who did the same work as you and explained a redundancy situation had arisen and then it should have met with you all individually to discuss alternatives to redundancy. As there is more than one person completing the same job, you should have all been subjected to 'selection criteria' whereby your employer would have scored each person on chosen criteria, for example, punctuality, productivity etc. and all criteria should be objective. It appears that your employer did not follow a fair process and that its reasoning for making you redundant could be unfair.

If your employer chose to make you redundant due to your illness and you illness is classified as a disability, you may consider making a claim for disability discrimination.

Q. I have been working for my employer for 5 years and have been made redundant but am working my notice of 3 months. I have been advised by my employer that I can take unpaid leave to look for work and attend interviews, is this correct?

A. You are entitled to take a reasonable amount of paid leave to look for other work or attend training for future employment.

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