

# Private Client Bulletin



**Natalie Boorer**  
Senior Solicitor and Bulletin Editor  
Wills, Trusts and Estate Planning

[natalie.boorer@ibblaw.co.uk](mailto:natalie.boorer@ibblaw.co.uk)

## In this issue

**2 Who will look out for me?**

**3 Alzheimer's Society Dementia Awareness Week**

**3 Is mediation the way forward?**

**4 Shed@ThePark**

**5 '10 for 10'**

**6 HS2: What now?**

**7 Chesham Foodbank launch**

**8 IBB events and sponsorships**

Welcome to the summer 2011 edition of the Private Client Bulletin.

**F**or many of us, the improved weather and longer days make us want to take on new challenges. For my part, I have just taken on the voluntary role of Company Secretary for a wonderful local charity, Shed@ThePark. Irene Perrin, current chair of Shed, tells us a little more about the organisation in this edition.

IBB is also delighted to be involved with the Chesham Foodbank, an inspiring example of how a wide variety of sections of the community can come together for the benefit of those less fortunate.

Many people do face uninvited hardships. Ken Dorley, manager of the Berks, Bucks and Oxfordshire Alzheimer's Society tells us a little more about the valuable work of their organisation in supporting dementia sufferers and their families. We also have some salutary advice from our own Joanna Mills about making Lasting Powers of Attorney.

Another big worry (for different but just as serious reasons), faces those homeowners and their families who live along the proposed HS2 train route to Birmingham.

James Del Mar, from Knight Frank, has kindly agreed to provide us with an update to these ongoing developments.

Richard Phillips, who heads our family team, tells us a little more about mediation and its usefulness in resolving family disputes before they end up in court.

I think we all hope to do what we can to help others. The government has announced new proposals to encourage us to leave more money to charity when we shuffle off this mortal coil; our charities specialist, Tim Rutherford, explains the new '10 for 10' proposals and their impact on inheritance tax. This may not be the right thing for everyone, but, somehow, when the sun is shining outside, I'm prepared to give it a little more thought.

I do hope you all have a wonderful summer ◆

Natalie Boorer, Editor

08456 381 381  
[www.ibblaw.co.uk](http://www.ibblaw.co.uk)



**Joanna Mills**

**Senior Solicitor**

Wills, Trusts and Estate Planning

[joanna.mills@ibblaw.co.uk](mailto:joanna.mills@ibblaw.co.uk)

## Who will look out for me?

**A** legal issue of importance to the carers of people suffering with dementia, and sufferers themselves, is who will make decisions of their behalf when they are unable to do so for themselves. In our previous Bulletin, I looked at the importance of making a Lasting Power of Attorney in respect of your property and financial affairs. But the Mental Capacity Act 2005 ('the Act') has introduced the new Lasting Power of Attorney (LPA) for Health and Welfare. This version of the LPA enables you to choose attorneys to make your welfare decisions for you in the event you become mentally incapable of making these decisions in the future. Before the Act it was not possible to make such a power of attorney.

In 2009, the story of Mrs Figg was widely reported in the press. Mrs Figg's daughter decided to move her mother out of a care home to live with her, as she was concerned that her mother was not being properly looked after. Mrs Figg was very shortly removed from her daughter's home by the police after an emergency warrant was granted at the request of Social Services, as they were of the view that it was in Mrs Figg's best interests to return to the care home. Following further meetings with the family to discuss Mrs Figg's care needs, Social Services agreed for Mrs Figg to move back in with her daughter once the necessary adaptations to the house had been carried out and a full care plan for Mrs Figg had been arranged. All this upheaval may have been avoided if Mrs Figg had made a Health and Welfare LPA appointing her family as her attorney(s) to make her welfare decisions, thereby removing Social Services' authority to make them.

If no Health and Welfare LPA has been created, and an individual does not have capacity, then their welfare decisions will be made by Social Services, carers or medical professionals, acting in what they believe to be the person's best interests. They will have a duty to consult with the next of kin but the decision is ultimately theirs. Where the next of kin do not agree with the decision being made then there is firstly the option of asking for a meeting to discuss the matter further and try to come to an agreement. If the decision is still disputed then the matter can be referred to the Court of Protection.

## It is important to decide who you want to make welfare decisions on your behalf if you lose your capacity.

It is important to decide who you want to make welfare decisions on your behalf if you lose your capacity. Some people are happy to leave the decision in the hands of an independent third party and therefore the Health and Welfare LPA is not necessary. However, some would prefer their family or friends to be making these welfare decisions, as they would be more aware of their wishes and beliefs. In these circumstances a Health and Welfare LPA needs to be created to ensure that your wishes take effect ♦

For further information please call **Joanna Mills** on 01494 790054.

## Alzheimer's Society Dementia Awareness Week

IBB works with the Alzheimer's Society to run seminars for sufferers and carers on the legal considerations of living with dementia.

The Alzheimer's Society was formed in 1979 by a group of carers of people with dementia. The Society has grown significantly over the past 32 years and is acknowledged as the leading charity in the field of dementia. Its efforts are focused on information, education and support, and in trying to develop increasing research into the dementia condition.

One of the initiatives the Alzheimer's Society promotes is Dementia Awareness Week, which this year will be held between 3 and 9 July. Dementia Awareness Week is a locally based activity and this year the Society is encouraging people to use the week not only to raise awareness of dementia, but also to fundraise and reach out to new members and volunteers.

The main aims of the week are:

- to provide the general public with information about dementia and how they can support people who live with it,

- to raise public awareness of the Alzheimer's Society and dementia, and
- to raise funds within local communities through a range of activities.

Another initiative promoted by the Alzheimer's Society is the Remember the Person campaign. This campaign puts people living with dementia at the heart of Dementia Awareness Week and asks the public to look beyond a diagnosis of dementia and remember the people living with the condition.

The campaign aims to break down the stigma felt by people living with dementia and their carers and to give members of the public a list of 10 simple things they can do to help a family living with dementia to live well. Finally, it directs people to the Alzheimer's Society to find out more about supporting people with dementia.

[www.alzheimers.org.uk](http://www.alzheimers.org.uk) ♦

**If you would like to support the Alzheimer's Society in any way please call Ken Dorling on 01296 718956.**

## Is mediation the way forward?

From 6 April 2011, it will be compulsory for all couples who are separating to attend a mediation information and assessment meeting before they issue a court application to resolve issues relating to their finances or their children. This already exists for couples who are eligible for legal aid. There will be some limited exceptions if, for instance, there has been domestic violence, there are child protection issues or an urgent application needs to be made.

The Justice Minister, Jonathan Djanogly, says mediation is a quicker, cheaper and more amicable alternative, particularly where children are concerned.

In 2009, approximately 137,000 cases went through the family courts, a rise of 16% on 2008.

Richard Phillips, an IBB partner based in Chesham and Uxbridge, is both a family lawyer and a qualified family mediator. He has been practising family law for 20 years.

He said: "It is correct that mediation can help many couples if there is some communication and a desire to reach a fair agreement for the family as a whole. However, it is not the panacea for all ills. It does not suit everyone. There may be psychological (as well as physical) domestic violence, which is more difficult to detect, dishonesty or a large imbalance of financial knowledge between the couple in what they know and understand of the other's financial circumstances, or urgent steps may be needed."

Richard added: "However hard I try, I still have more cases that go to court than settle in mediation, though very few go to a final hearing. However, I am sure this will change with the advent of the new rules" ♦

**For more information about family law or mediation, you can contact Richard Phillips for a free telephone consultation on 01494 790058.**



**Natalie Boorer**  
Senior Solicitor and Bulletin Editor  
Wills, Trusts and Estate Planning

[www.shedatthepark.co.uk](http://www.shedatthepark.co.uk)

[natalie.boorer@ibblaw.co.uk](mailto:natalie.boorer@ibblaw.co.uk)

## Shed@ThePark

**O**ur editor, Natalie Boorer, has recently taken on the voluntary role of acting as company secretary for local charity, Shed@ThePark. She asked Irene Perrin, the current chair of Shed, to tell us a little more about what Shed is all about.

### What is Shed@ThePark?

Shed@ThePark Theatre Company is a regional outreach of the award-winning Chickenshed Theatre Company in North London. We are unique in the area and based at Chesham Park Community College in Chesham, South Buckinghamshire.

### How does Shed help the children who come to the workshops and perform?

Together, over 110 amazing local children and young people (5-16 years) create innovative and original work in weekly after-school music, dance and drama workshops and regular public performances. Our workshops and performances pull down barriers and allow individuals to collaborate creatively without definition of themselves as 'disabled' or 'non-disabled', 'mainstream' or 'special'. Shed believes that any young person who wants to perform has the ability and right to do so – there are no auditions to join.

Through our inclusive ethos, the young people forge strong friendships free from prejudice and discrimination and can share in the excitement of creating great theatre. They learn to value themselves and others, building mutual trust and respect.

The work that they originate collaboratively is of a very high standard and is shared with parents and members of the community at least twice a year.

### What has been your favourite Shed moment so far?

There have been so many magical moments, but one does stand out. During one of our performances, one of our young children became distressed. One of our volunteer practitioners who was about to perform a solo got down on one knee and sang her song to the young person.



She did it in a way that did not detract from her performance, but at the same time reassured the distressed youngster and gave them the confidence to carry on.

### What is the future for Shed?

Shed will continue to shape young people's lives by giving them life-changing opportunities. We will continue to create a supportive environment in which young people can work together to create inspiring and exciting theatre and foster a wider vision of the world in which everyone is acknowledged for the part they can play. We want all to believe that 'Anything is possible'.

We also want to create a shared vision for the future by reaching out to more young people. In partnership, we can look to develop additional workshops, including 'Shed Lane Tales' workshops for 0-5 year olds, an adult theatre company and a more extensive outreach programme.

And we want to deliver tangible business benefits: Shed can get managers thinking more positively about disability.

### How can people help?

People can help in a variety of ways. We are looking for high-profile patrons and new trustees to join the board, particularly those with business experience. And we are always looking for people to support us in raising funds and attending our performances ♦

For further information please call **Natalie Boorer** on 01494 790032.



## Tim Rutherford

Partner  
Charities

[tim.rutherford@ibblaw.co.uk](mailto:tim.rutherford@ibblaw.co.uk)

## '10 for 10'

The headline '10 for 10' sounds like an England cricket supporter's worst nightmare, but according to the Chancellor of the Exchequer this is actually intended to be: *"the most radical and most generous reforms to charitable giving for more than 20 years. Do the right thing for a charity and the government will do the right thing by you. It's a big help for the big society."*

## Give away 10% of your estate to charity then the inheritance tax rate applied to the balance of your estate will fall from 40% to 36%.

March's Budget has introduced this new relief as a way of trying to persuade people to leave 10% of their wealth to charities when they die in order to reduce the amount of inheritance tax that their estate will pay. In summary, if you give away 10% of your estate to charity then (for deaths after 5 April 2012) the inheritance tax rate applied to the balance of your estate will fall from 40% to 36% (ie a 10% reduction of the 40% rate, hence '10 for 10'). The Chancellor estimates that this will make charities better off to the tune of £300 million, while at the same time meaning that beneficiaries under a will are not going to be worse off. How does this work in practice? As with any Budget the devil is in the detail and we have not yet seen the detailed proposals but taking the announcement at face value, we have worked through a couple of examples.

### Example 1

Assume your elderly bachelor uncle dies leaving you his entire estate worth £2 million. Under the current rules, the first £325,000 of his estate would pass free of tax and the balance would be taxed at 40%, making a tax liability of £670,000. This would leave you with £1,330,000.

If, however, your uncle was to have left £200,000 to his favourite charity and the residue of £1.8 million to you, then:

- (a) £200,000 would have passed to the charity tax-free (as no inheritance tax is paid on gifts to qualifying charities),
- (b) £325,000 would have passed to you tax-free, and
- (c) the balance would be taxed at 40% making a tax liability of £590,000. You would therefore have inherited £1,210,000. While you would have inherited £120,000 less, the charity would have benefited to the tune of £200,000, so a net saving on inheritance tax of £80,000.

### Example 2

Under the new rules, assuming your uncle were to leave the same legacies, then:

- (a) the £200,000 would still pass to the charity tax-free,
- (b) £325,000 would pass to you tax-free, and
- (c) the balance would be taxed at 36% making a tax liability of £531,000.

You would therefore inherit £1,269,000, making you £58,000 better off than under the system in Example 1, while the charity would be no worse off. Of course, you would still be £61,000 poorer than if there had been no gift to charity, but you would have the benefit of knowing that the charity had received £200,000 and £139,000 less had been paid in IHT.

Tim Rutherford is a partner in the Charities Team in Uxbridge, which advises charities of all sizes on regulatory and contractual issues, as well as advising charity trustees and school governors on their duties and liabilities ♦

**For further information please call Tim Rutherford on 01895 207828.**



**James Del Mar**  
Head of Rural Consultancy  
Knight Frank LLP

[james.del.mar@knightfrank.com](mailto:james.del.mar@knightfrank.com)

## HS2: What now?

**W**ith so much talk and press comment for and against HS2, it can be easy for those along the route to be so drawn into the opposition and consultation process that little thought, if any, is given to their position should the scheme proceed.

The government has given HS2 Ltd a five-month public consultation period. That started on 28 February 2011 and will end on 29 July. During that time, there are various presentations and road shows that will give those interested the chance to better understand the scheme and raise questions to HS2 representatives. For many, this is an opportunity to prepare further grounds for opposition. It should also be a time to get to grips with the potential implications of the scheme should it proceed. From there, decisions can be taken as to how best to protect property interests and the sort of claim that can be brought.

When the public consultation period closes, HS2 Ltd will need time to review all the comments and responses. This means that the currently proposed Route 3 remains only a concept until March 2012. As such, there is no prescribed legislative mechanism for compensating those adversely affected by the threat of the railway adversely affecting their home or property.

In recognition of the length of time that it is taking to reach an agreement and safeguard the route, the government has encouraged HS2 Ltd to provide compensation via a discretionary scheme, known as the Exceptional Hardship Scheme (EHS). A large number of applications have been made to HS2 under the EHS (although HS2 had declined to release information as to the precise number of applications) but less than a dozen claims have been successful to date. The scheme is intended to allow property owners who have suffered a substantial decrease in the value of their property as a result of the proposed route and have a need to sell now, to sell to HS2. This scheme does not provide for those who merely wish to sell or for those who cannot demonstrate that they would suffer 'exceptional hardship'

if they did not sell. Clearly this leaves a number of adversely affected property owners unable to bring a claim now.

Safeguarding is the process by which the government commits to the scheme and brings about the legislative provisions for compensation – hence the EHS will close at the date the route is safeguarded – likely to be March/April 2012. Assuming this happens, the provisions of the Planning and Compensation Act and, specifically, Statutory Blight will apply – enabling those substantially adversely affected and unable to sell to require their property to be compulsorily purchased by HS2 Ltd. For those unable to satisfy the provisions of Statutory Blight (which are not always easy to satisfy and some of the criteria are fairly subjective), adversely affected property owners divide into two categories – those whose land is required for the construction or use of the railway line, and those whose land is not.

## Claims cannot be brought (in most circumstances) until one year after the railway line has first been used, likely to be 2027.

For the former category, claims can be brought once the government has provided the enabling legislation, identified land interests and owners, prepared Compulsory Purchase Orders and served 'Notices to Treat'. This is likely to be around 2015/16. For those whose land is not required for the construction or use of the railway, claims cannot be brought (in most circumstances) until one year after the railway line has first been used, likely to be 2027 – and, the basis of assessing the claim is narrower than for those whose land is required – for example loss of view is not (for those whose land is not acquired) an item for which compensation is payable.

The legislation is complex – assuming the government proceeds with the enabling legislation via a hybrid act, the relevant legislation will be contained within four key pieces of legislation (all very different) and there are likely to be nine different approaches for producing compensation for property owners. Clearly steering through this minefield of legislation and the sheer number of permutations needs proper professional advice and support – not only in fully understanding the correct and most appropriate method for assessing compensation and filing the claim, but also to ensure that the legal interests in the property are correctly aligned so as to make bringing a claim both possible and representative of the most appropriate compensation package.

In addition to the compensation elements, those affected will also wish to give thought to mitigating the effects of the railway – some of this can be done by agreeing accommodation works, some may need to be done personally.

Aside from the public consultation process and the representations that many will wish to make, it is prudent for those on or near the route to consider all the implications if HS2 proceeds with its current proposals ♦

**For further information please contact  
Gillian Outram on 01494 790013 or  
email [gillian.outram@ibblaw.co.uk](mailto:gillian.outram@ibblaw.co.uk).**

## Chesham Foodbank Launch

**W**ith disappointing economic growth results for the last financial quarter raising fears of a 'double dip' recession and potential interest rate rises, we would be forgiven for wondering what the impact is likely to be on our own local community. Few will escape feeling the pinch as rising inflation eats into household budgets. However, for those already struggling to cope, these increased financial pressures can create a time of crisis and despair.

It is, therefore, heartening to report that the first ever Chesham Foodbank opened its doors on 24 January 2011. The Chesham Foodbank operates under the auspices of 'Churches Together for Chesham' and in partnership with The Trussell Trust. Foodbanks give three days of nutritionally balanced food to support people who are experiencing emotional or financial crisis. Representatives of all areas of the Chesham community gathered at its premises at St Mary's Annex, Chesham, to see our mayor, Cllr. Jane Bramwell, cut the ribbon and announce: "I have great pleasure in opening this wonderful initiative and wish you continued good fortune as you seek to service our local community in this valuable way."

Many local businesses attended the launch to offer help, support and donations. Sainsbury and Waitrose supermarkets expressed interest in staging food collection days at their stores and IBB Solicitors, based next door to Chesham Foodbank at The Bury, arrived with a much-needed and gratefully received donation.

The launch was heavily supported by Chesham schools, as the Foodbank welcomed Julia Antrobus from Newton School, Janis Radcliffe from Chesham Preparatory School, Gareth Drawmer from Waterside School, Siobhan Bygate from Chesham Grammar School and Kelvin Bagley from Chesham Park Community College.

Also in attendance were representatives from other local organisations, many of whom will be acting as referral agencies for Chesham Foodbank, including the Citizen's Advice Bureau, Carers Bucks, Thames Valley Probation Trust, Chesham Sick Poor Fund and Housing Interaction Trust.

All donations of non-perishable food will be gratefully received at local churches or at the Foodbank base in the Parish office at St Mary's Church in Old Chesham ♦



# IBB events and sponsorships

**W**orking in the Chilterns since 1968 has allowed us to support local groups and build a strong bond with the community. We have supported many groups over the past year and below are details of our involvement with The Rotary Club of Amersham.

We have also included details of the events we'll be going to this year. **We hope to see you there!**

## Focus on the Crocus

IBB was proud to sponsor The Rotary Club of Amersham's Focus on the Crocus. Rotary in Great Britain and Ireland (RIBI) worked with The Eden Project, the International Flower Bulb Centre (IBC), the National Trust and Learning through Landscapes to plant four million purple crocus bulbs nationally. This campaign aims to finally eradicate polio across the world. The Ruby Giant 'purple' crocus represents the dye colour dabbed on children's little 'pinkie' finger to indicate they have been immunised against polio. The Rotary Club of Amersham, aided by 10 local primary schools, Amersham Town Council and the Mayor of Amersham, planted 10,000 bulbs in Amersham, Little Chalfont and Hyde Heath.

## Chenies School Fête – Saturday 25 June

The Chenies School Summer Fun Day will be held at the school (in Chenies Village) between 3 and 6pm. There will be an assault course and bouncy castle for the children, a racing car simulator for both children and adults, and lots of classic stalls such as bottle and toy tombolas, a coconut shy and cake stands, to name but a few. Of course there will be a bar and BBQ, and a band to keep the atmosphere going and make it a fun family day out!

## Chesham Theatre Company – 25 June–2 July

Once again by kind permission of IBB Solicitors, Chesham Theatre Company is presenting an Open-Air Festival this summer, in the beautiful grounds of 'The Bury', Church Street, Chesham. The main CTC production this year will be 'Wind In The Willows' (five

performances) adapted from the much loved Kenneth Grahame book. The Festival will also contain a Musical Evening with Lee Bright and his guests on the Sunday. Voxtet (a vocal big band) will perform on Tuesday and we will hear Lumina (medieval music, etc) on Wednesday. A special performance by disabled children from Heritage House will provide a band of drummers and some folk-dancing. All in all a wonderful week of entertainment.

## The Chalfont St Giles Show – Saturday 3 September

The theme for the 2011 Show is 'Down on the Farm'. It will be held at Stone and Silsden Meadows, (South of Pheasant Hill), Chalfont St Giles, from 11am. The committee is currently busy planning the events and taking bookings for the 2011 Show and will post information on [www.csgshow.org](http://www.csgshow.org) as soon as it becomes available.

## The Chorleywood Literary Festival – weekend of 18–21 November

The Chorleywood Literary Festival, now in its sixth year, will take place over the weekend of 18–21 November. A series of author events to include creative writing, a writing competition and events for both adults and children will be on the menu. Previous years have seen Sir Ranulph Fiennes, Simon Scarrow, Jodi Picoult, Howard Jacobson and Carol Ann Duffy take part in the Festival, as well as crime evenings, debates and wine tastings. At the time of writing, only a few events are confirmed, but news will be posted on [www.cwlitfest.org](http://www.cwlitfest.org) as they are booked ♦

IBB's private client team looks after the personal interests of local business leaders and their families, high net worth individuals, as well as those in more vulnerable and excluded communities. Our solicitors are recognised as leaders and experts across a number of areas by the UK's independent legal directories.

### IBB Solicitors

The Bury, Church Street, Chesham, Bucks HP5 1JE.

**T** 08456 381381 **F** 08456 381391

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