

Private Client Bulletin



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

natalie.boorer@ibblaw.co.uk

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As I write this, it is officially 47 days until Christmas. I am quite astonished at how quickly this past year has flown by. "It seems like only yesterday..." - I'm sure these words cross everyone's minds as a new year approaches, but that isn't to say that nothing has happened in the past year. Global uprisings, economic slowdowns and individual tragedies. Our thoughts are with those directly affected.

But I do think we should all take a degree of personal pride in surviving another year while all this turmoil continues around us. The passing of time can be our friend, as well as something we live in fear of. It now seems like such a long time since this financial crisis began, and, for those of us in business, we can draw some comfort from the hope that things will not always be this difficult.

The ability of mankind to review and take responsibility for their own actions, and then adjust future plans accordingly, is a characteristic that we, as lawyers, see every day in our own valued clients. In this edition, we hope to address some concerns for those who want to plan ahead. There is a glimmer of hope for those directly affected by the original HS2 route - we welcome back James Del Mar from Knight Frank with the latest updates. And our private client expert Gillian Murray has some advice for any grandparents who are thinking of helping out their own children financially.

Christmas itself is not easy for everyone. Richard Phillips, our family partner, and an accredited mediator, has put together invaluable tips to help make Christmas a happier one for parents and children affected by family breakdown.

And for those of us who occasionally enjoy the feeling of escapism that delving into fiction can bring, we are delighted this year to be sponsoring the Chorleywood Literary Festival from 18-27 November. We hope to see many of you there ◆

Natalie Boorer, Editor

08456 381381
ibblaw.co.uk



Gillian Murray
Consultant
Wills, Trusts and Estate Planning

gillian.murray@ibblaw.co.uk

The Bank of Grandma and Grandpa

Press stories about the “Bank of Mum and Dad” helping young people on to the property ladder have been common recently but the “Bank of Grandma and Grandpa” is often called on at an earlier stage to help contribute to school and university fees. With university course fees heading to £9,000 a year, before a student’s living expenses have been funded, financial help from grandparents is no longer the preserve of families who have children in private education.

IBB Partner and Independent Financial Advisor, Martin Silverman, says “there is no magic solution for these fees – you have to have it, save for it, or mortgage for it”. Often it is the grandparents who have – at least some of – it!

Even if the grandparents think they are merely paying bills, the taxman considers the payments to be gifts: the possible tax implications must be understood and, where possible, planned for. Income Tax relief was abolished years ago so, if contributions are funded out of income, this is after tax has been paid (frequently at 40%). Whether contributions are made out of income or capital, they could impact on the Inheritance Tax (IHT) charge if a grandparent died within seven years.

1. Gifts out of Income

If grandparents are planning to contribute over several years out of income, an additional IHT exemption can be claimed. The exemption is not automatic and technical requirements have to be met. There must have been an intention that more than one contribution would be made so that the payments constitute regular and normal expenditure out of income. If the grandparents’ circumstances change in future years and payments cease, are cut down or have to be made out of capital, evidence of the original intention should prevent the earlier payments being taken into any IHT calculation.

There must also be surplus income to cover the payment. If a grandparent dies it could be difficult, time consuming and expensive for the family to assemble the required information. The claim is easier to establish if

the grandparent has maintained records of yearly income and outgoings (Council Tax, utility bills, water charges, insurances, food, clothing, holidays etc).

There is a £3,000 annual “allowance” for IHT-free gifts and grandparents may consider that they do not need to worry about the additional “gift out of income” allowance if a couple’s combined contributions will be under £6,000 each year. However, to the extent that the payments can be made out of surplus income, this would give the grandparents the freedom to use their annual gift allowance for other members of the family. If one of the grandparents were to die, the agreed contribution may exceed the surviving grandparent’s annual allowance. Structuring the payments so as to qualify for the exemption will prevent the excess payment from becoming taxable.

2. Gifts out of Capital

If the contributions cannot be met out of income, setting aside the full amount to be paid at an early stage may be advantageous. It would start the seven years running for the capital payments to be exempt from IHT on the grandparent’s death. The lump sum could be managed by the grandparents, parents, or could be invested in a managed bond.

Any income earned could escape Income Tax (or at least a higher rate liability) by being assessed on the grandchild, not the grandparent. This opportunity is not available to parents, who would be treated as taxable on income from funds they set aside for their children under the age of 18 ♦

For further information, please contact one of IBB’s Estate Planning and Management Team solicitors.



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Chorleywood LitFest 18-27 November 2011

The organisers of this popular local event tell us what they have lined up for this year’s programme. Any one of you living in this area will know how lucky we are to have access to stunning countryside, fast routes to the capital and brilliant local facilities. But, do you know about the Chorleywood Literary Festival which takes place between 18 and 27 November this year. It’s our sixth year and was listed by Country Life as “one of the cream of the crop”. We started with two enterprising women and some dynamic volunteers and it has got bigger and better with larger audiences and increasing press interest. We’ve had some wonderful speakers including the Man Booker prize winner Howard Jacobson, the Poet Laureate Carol Ann Duffy and explorer Sir Ranulph Fiennes. If this is news to you, don’t miss out on this year’s LitFest because there are events for all tastes and ages. It’s friendly, fun and affordable with tickets at £6.

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The LitFest kicks off **on Friday 18 November** with “Love, Sex and Betrayal” which will be chaired by IBB partner Andrew Olins. We have three fantastic Penguin authors who will weave together an extraordinary story of love, sex and betrayal through the ages. For fans of action adventure, intrigue and history there’s more modern history with Max Hastings’ assessment of the impact of WW2, an event with two family stories of a resistant Jew and a “hidden” Nazi. For fans of the TV series Downton Abbey, Lady Fiona Carnarvon will focus on Lady Almina, the 5th Countess of Carnarvon and her determination to preserve Highclere Castle.

The much adored presenter of Radio 4’s Woman’s Hour, Dame Jenni Murray, will also be with us to tell the story of her great love affair with her dog, Butch the Chihuahua.

On Sunday 27 you’re spoiled for choice. The day starts with the award-winning food writer, Elisabeth Luard with a year of Welsh cooking and moves onto the extraordinary illustrations of Matteo Percoli. He has created an astonishing document of his artistic journey along The Thames – a 37-foot-long pen and ink drawing of the north and south banks. The day will end with Angela Thirlwell’s vivid account of the public art and private demons of Ford Madox Brown.

Last but not least there’s something for the 3-7 year olds. On Saturday 19 we have the wonderful story teller Danya Miller who will take the children into a wonderful imaginary world of stories. Tickets £3.

We also have a writing competition. This year’s theme is Laughter, with categories for 5-7 year olds, 7-11 year olds, 11-16 year olds and adults. Further details are available on our website. If you’re more ambitious and want to write a book we can help with that as well. Author Ciaran Murtagh is running a day-long workshop with an editor and publisher. Tickets are £35 and include lunch.

Our thanks go to IBB Solicitors for sponsoring the Chorleywood LitFest ♦

For more details visit www.cwlitfest.org or contact the Chorleywood Bookshop on 01923 283566.



Richard Phillips
Partner
Family and Matrimonial

richard.phillips@ibblaw.co.uk

A happier Christmas

Children of separated or divorced parents can sometimes find themselves in the midst of family tensions over the festive season, and parents themselves can feel left out. Richard Phillips, partner in IBB's family team, and an accredited mediator, says a little planning and consideration can help make everyone's Christmas a happy one.

1. Don't leave planning Christmas arrangements to the last minute. It is important everyone, especially the children, know well in advance where they will be spending Christmas. An urgent court application can be stressful and expensive.
2. Take the children's wishes and feelings into account, but don't ask them where they want to spend Christmas. It can put undue pressure on them and create loyalty conflicts.
3. If it's your first Christmas apart, don't get too hung up on who the children will be with on Christmas Day. There will be more Christmases to come. You could alternate Christmas Day each year or you might share the day if you live nearby.
4. Children generally like routine and certainty so try and repeat the arrangements over the years. Stick to the arrangements for collection and return of the children. There is nothing worse than an argument over Christmas.
5. Encourage or accept that your ex may want to take the children to visit his or her relatives whom they may not have seen for some time. The children may have enjoyed a close relationship with them before you separated.
6. Try to agree who will buy what present for which child to avoid duplicate or unwanted presents, and don't compete with your ex over presents. Spending time with you is much more important for the children.
7. Don't try and recreate the perfect family Christmas from the past. It is likely to fail and be a poor imitation of what used to happen – but try and keep some family tradition.
8. Children of separated parents frequently complain they are required to eat two Christmas dinners so as to please both parents. Don't do it!
9. Allow and help your children to buy a present for your ex and even think of buying one yourself!
10. Reassure your children that you will be fine when they spend time with their other parent so they do not worry about you or feel guilty leaving you.
11. Don't badmouth your ex in front of the children.
12. Don't drink too much and make rash decisions during what can be a particularly emotional time.
13. If your ex has the children for Christmas, don't spend it alone. Make sure that you are supported by family and friends and don't feel guilty.
14. Try to relax and enjoy yourself with the children. It is Christmas after all! ♦

For further information please call **Richard Phillips** on 01494 790058.



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

natalie.boorer@ibblaw.co.uk

Care in crisis

Castlebeck Care and Southern Cross - just two of the care companies who have hit the headlines in 2011. Horrific abuse was uncovered at one of Castlebeck's homes for vulnerable adults, and Southern Cross, Britain's largest care homes operator, went into administration, leaving its 31,000 residents uncertain as to their futures. While the facts differ, the question arises as to how much do we really care about how the vulnerable in our society are treated?

It is against this background that Andrew Dilnot was tasked by the government with looking at the way that the care and support system currently works in England. His report sets out the following recommendations for reforming the adult social care system.

- Improving the integration of adult social care with other services in the wider care and support system, Eg the NHS.
 - Collaboration between the government and the Financial Services Authority and other partners to develop greater support for those seeking information on financial planning for older age.
- The Report has broadly been welcomed by commentators who would appear to agree with its opening key finding that the current adult social care funding system in England is not fit for purpose. Certainly, the Report positively addresses the concerns that many people have about their own future.
- The Commission's core proposal, and the one which will be the subject of most political discussion, is to ensure that no one would have to pay more than 30% of their assets and savings towards meeting their care needs. This would be achieved by capping an individual's care costs to £35,000 and increasing the threshold for means-tested support to £100,000.
- At the moment, the government does not appear to want to speed ahead with the reforms, committing only to a consultation period at this stage. It is clear however that action has to be taken and, whether the Dilnot reforms are adopted in full or in part, if at all, the Report is at least a sober analysis of the current social care system, and a worthy attempt at addressing people's concerns about their future care and the funding of that care. It is most definitely a hook upon which to hang future discussions, but we are probably past the point of further prevarication, having reached a stage where affirmative action is not just advisable, but unavoidable.
- More state funding is absolutely required - let us hope that the government retains the imagination to find ways of re-directing resources to this much needed area ♦
- Capping an individual's lifetime contribution to care costs to £35,000, regardless of wealth.
 - Raising the threshold for means-tested support from £23,250 to £100,000.
 - Those with support needs that continue into adulthood should be immediately eligible for free state support to meet those needs.
 - Maintaining the payment of disability benefits to support and encourage independence, including re-branding of attendance allowance to improve take-up.
 - Charging for ongoing living costs (e.g. food and accommodation) within a care home environment, but capping such costs at £7,000-£10,000 per year.
 - Setting a national threshold for care eligibility to avoid the postcode lottery for care services.
 - Improving access to information and advice and investing in an awareness campaign.
 - Improving carers' assessments to take place alongside the assessment of the person being cared for, and providing better support for carers generally.

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

Consumer news

What lies beneath?

We are all fully aware of the need to survey a house or other building before buying it. But perhaps most of us are not so conversant with the idea of paying for a desk-top environmental survey on a plot of land, enabling us to fully understand what it has been used for in the past before committing to its purchase.

The wisdom in doing so is for a very simple reason – if the land provides a conduit or “path” for a pollutant to reach an environment or person who may be harmed by it, as owner of the land you will be held responsible for cleaning it up. It does not matter that you did not initiate the problem.

As well as clean-up costs, which can be very high depending on the seriousness of the contamination, you may also be liable to criminal prosecution.

Naturally, carrying out investigations before purchase means you may be able to mitigate the cost of this work by reducing the price you pay. Our residential conveyancing team are on hand to talk through your situation regarding land you own or are planning to buy ♦

For further information please call Gillian Outram on 01494 790013.

Beware the holiday emergency scam

If you ever receive an email from a friend’s account, saying that they have been robbed while on holiday overseas and asking you to send money to help them get home, there is probably only one thing that you can be sure of: that your friend’s email account has been hacked by a fraudster.

The so-called “holiday scam” is an increasingly common fraud that has been widely successful, precisely because it has two “victims”: first, the person whose account has been hacked, which lends added credibility to the request; and second, of course, the real target of the scam – you.

Naturally, the first thing you should do is to contact your friend to establish that they are well and in full possession of their own money. Unfortunately, they are likely to be entering a particularly difficult period because being hacked is a highly disruptive and upsetting experience that can take considerable time to resolve.

Secondly, you should learn the lesson of your friend’s experience and do everything you can to avoid being hacked yourself. The key to this is to change your password regularly and to make sure that all such details are kept private. Indeed, the fewer people who get hacked or fall for this scam, the sooner it will cease altogether.

Google and the Citizens Advice Bureau are running a campaign to help people to be more safe online ♦

For further information visit www.google.co.uk/goodtoknow for more details, including a handy jargon buster.

Tracking the digital footprint...

An increasing problem for executors responsible for ensuring that the true wishes of a deceased person are respected is the growing “digital footprint” that is making its mark on most of our lives. With e-mail, online banking and social networking accounts protected by password it is proving increasingly difficult to get a complete picture of a person’s affairs after death.

As a result, there is now a call for people to include directions around their digital world within their wills, including usernames and passwords. Indeed, a recent report from London University’s Goldsmiths College and webhosting company Rackspace shows that some 11% of UK adults have independently considered providing such details.

Part of the issue today is that email providers and social networking companies have been slow to develop a common policy on how to handle the death of a customer; for example, while MySpace and Facebook both allow family members to close down a profile, Yahoo! denies access to emails altogether, while Google requires a court order.

People should consider this issue when drawing up a will, and help to make life as easy as possible for executors to get to grips with the intricacies of their

estate. While no one wants to update their will every time they change a password, keeping a secure centralised record of passwords is a practical alternative ♦

For further information please call Jacqueline Almond on 01494 790002.

“Green” solution is not always the way ahead

In the past, it has often been a tactic of local people to have ground under possible threat of development designated as a “village green”. This has been known successfully to prevent building from going ahead, as it means that the landowner cannot interfere with the rights of locals to use the land for recreation.

It is possible to apply for village green status under the Commons Act 2006, and doing so has become a popular move in recent years.

In a recent case, however, developer Barratt Homes has successfully challenged such a strategy when a local council sold it some development land in Monmouthshire. While an action group was successful in its application for village green status, this only happened after planning

permission had already been granted on the land. As a result, Barratt was able to use the Town and Country Planning Act 1990 in its case, which states that local authority land appropriated for “planning purposes” is allowed to be used by “any person in any manner in accordance with planning permission.”

If you are keen to prevent development of land within your community, our specialist property dispute lawyers can advise on the options you should be considering ♦

For further information please call Andrew Olins on 01895 207976.

Power companies charging improper penalties?

Some energy companies have been caught wrongly charging customers penalties of up to £100 when they try to leave for a new supplier following a price rise on a variable rate tariff. This is despite a rule that gives customer time to move without penalty after the announcement of a rise and before it is implemented.

According to official watchdog Consumer Focus, there has been clear confusion on the part of suppliers regarding the rules. It also added, now that energy regulator Ofgem has written to suppliers to remind them of the time window, there is “no excuse for energy firms to be getting it wrong and charging customers a fee if they want to leave around a general price rise”.

Many customers have nonetheless still been given incorrect information, and some have even been charged a fee despite being reassured that they would not.

Consumer Focus believes that the delay in sorting matters out may also have prevented them from migrating to cheaper deals that have now been discontinued. However, it also pointed out that Ofgem has said that customers can opt out of fixed-term deals when there is a general price increase, which it believes will give more consumers greater flexibility to find a better tariff ♦

For further information please visit www.consumerfocus.org.uk
Consumer advice: www.consumerdirect.gov.uk
08454 040506.



James Del Mar
Head of HS2 Team
Knight Frank LLP

james.del.mar@knightfrank.com

Update on HS2

James Del Mar, head of the HS2 team at Knight Frank, reports that new proposals by Labour seem to be afoot (although at the time of writing no official statement had been issued by the party).

The new route between London and Birmingham runs to the west of the existing corridor, involves a long tunnel under the Chilterns and includes a hub at Heathrow.

As yet there has been no official response from HS2 Ltd or the Transport Minister, but this development, while potentially good news for those whose properties would be affected by the existing proposal, could bring a great deal of uncertainty to the whole HS2 planning process. It also exposes the serious flaws in the UK's planning and compensation system for major infrastructure projects.

Part of the reason we believed that the Transport Minister Justine Greening was likely to approve the existing HS2 route was the cross-party support it enjoyed (it should be remembered that the current route was actually proposed by the former Labour administration). If Labour's support can no longer be relied on Ms Greening may be less confident to give the go ahead using the current route proposals without further consultation.

This could ultimately be good news for property owners along the current route (and bad news for those along Labour's alternative). Alternatively, it may just draw out an already painful process even further if Labour's route is considered and then ruled out.

Knight Frank's HS2 team continues to press for clarity on the government's intentions, along with adequate and fair compensation for those affected property owners ♦

News from IBB

IBB achieves impressive rankings in independent legal guides

IBB is celebrating outstanding rankings in the 2012 editions of Chambers & Partners and Legal 500, confirming the firm's position as one of the foremost firms in the region. Each year, the directory researchers interview clients and peers to establish leading firms, and we greatly appreciate the positive feedback given by our clients that has led to such strong results across all our practice areas ♦

IBB's private client practice strengthened

This year has seen IBB's private client team expand as smaller firms from the area have joined us at The Bury. In June, we welcomed former clients of Francis & How when the practice closed. In July, Amersham-based Jeremy Gibbs, who had run a practice there for over 30 years, joined IBB as a consultant, and in September, Ray Brown, who had run Brown & Co in Chalfont St Giles for 40 years, also joined the IBB stable. We are very pleased to be working with such highly respected practitioners and continuing the provision of quality legal services in the area ♦

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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