

Cozens-Hardy LLP

A very warm welcome to the fourth edition of our new newsletter
the Brief

In this issue...

The Property Market: Carpe Diem?
by Philippa Rudd

Focus on...
The Commercial Department

First New York, Now London!

Dismissal Law Changes

Discretionary Trusts - The Advantages by Alistair Sursham

Cozens-Hardy LLP Hackers Golf Day - DATE ANNOUNCED

Please visit our website:
www.cozens-hardy.com

Simon Whippo, Managing Principal
swhippo@cozens-hardy.com
tel: 01603 724652



As I am writing this note for the Brief, a very rare and extraordinary event is occurring in the resignation of a Speaker of the House of Commons. The first forced change in over 300 years. Perhaps not an event that appears relevant to a legal newsletter, but there is an element to this event which is relevant to all business.

The common theme is 'change' - and the failure to respond adequately, or at all, to change. Change is all around us, and much of the change in the past 12 months is a result of a very different economic environment and outlook. In this issue, Philippa Rudd is coping with massive changes in the property market, Alistair Sursham concludes his series of articles on the relentless changes that occur in tax law and there is the major overhaul of employment law relating to dismissals.

Change affects us in two ways at Cozens-Hardy. First, we must be on top of new legislation and the latest Court rulings - one of our professional skills. Unless we keep up to date with changes in the law, we cannot give you best advice on how to deal with legal issues as they arise. As a firm we spend thousands of pounds a year on training and updating our knowledge; it is an essential part of coping with change to be continually renewing our knowledge.

Second, we must understand how changes in the law can benefit the way you run your business - either to avoid expensive pitfalls, or, more positively, to change your procedures so that your business runs more efficiently. Many of us groan at the thought of change, the interruption of our daily patterns with which we are comfortable. But change is inevitable, and if we don't adapt our competitors - and, more importantly, our customers - will.





THE PROPERTY MARKET: CARPE DIEM?

by Philippa Rudd



Principal Philippa Rudd heads up the largest and arguably the most successful conveyancing team in the region. As head of our Residential Property Department, Philippa writes a popular regular property column for the Eastern Daily Press – and, when not at work, Philippa is a keen runner, having just successfully completed her first London marathon.

So what advice does our speedy expert have on the current property market?

We would all like to buy or lease a property when the market hits rock bottom and to sell just as the market reaches its peak. We have all seen the graphs, we know that what goes up must come down and it is all a question of timing. We also know that ultimately we can't go wrong with bricks and mortar. We live on an island and property is a limited commodity; over the medium term it provides one of the best investments that can be made.

In the last eighteen months the property market, both residential and commercial, has suffered its worst collapse in living memory. Falling house prices, redundancies, negative equity, repossessions, defaulting tenants, and empty business units. Those of us working in the property sector frankly

struggled to put on a brave face. But now, as we head into summer, are those alleged 'green shoots' really appearing?

Well, the government is certainly putting pressure on the lenders to release more favourable mortgage products and the Surveyor and Estate Agent institutions report that new buyer enquiries are on the up. The government has extended the Land Duty Stamp Tax holiday on properties up to £175,000 until the end of 2009 and further public funds are being made available for public works projects and shared equity housing. Critically, the Bank of England reported that mortgage lending increased for three months in a row to the end of April.

And from a personal perspective, the property solicitors and executives here are much busier. The telephones are ringing again, we are giving out lots more conveyancing quotes - we even came across someone being gazumped the other day! Houses that have languished on the market for months are now last under offer; we may not be at the very bottom of the market yet, but we are not far off and we all know what a huge impact the media can have on the public's confidence. A few natty headlines about prices rising and significant buyers and investors may come back into the market. But by

then it might be too late... There are plenty of bargains out there right now. Now is the time to be contacting your estate agent or commercial property agent to discuss what is available on the market. Whether it is your own home, an investment property or your business property, you should be researching what is the right size and location of property for you. Now is the time to get a clear view of how this 'buyers' market in property can assist your longer term personal, financial or business plans by getting you into the right location and the right premises while the cost is at its lowest. Having talked extensively with our financial colleagues in banks and independent financial advisers, money is available for those with well thought out financial and business plans.

In short, I think the property market is levelling out. Now is the time to begin planning a property strategy for yourself and your business. Ask questions, research thoroughly and get ready to move when you find what you need.

Philippa Rudd, Principal & Head of Residential Property
pgrudd@cozens-hardy.com
tel: 01603 724640



FOCUS ON... COMMERCIAL DEPARTMENT

by Julia Daber

Julia Daber, Associate jadaber@cozens-hardy.com tel: 01603 724650

“A verbal contract is not worth the paper it is written on” so said Sam Goldwyn of Metro Goldwyn Mayer fame.

The role of a commercial lawyer is to distil on paper the agreement between parties to a transaction - whether that is a property, employment or company matter - in such a way so as to leave no doubt in the mind of any party as to what has been agreed. Where such documentation is not in place, it falls to the commercial lawyer to interpret the position between the respective parties and advise, negotiate and, if necessary, litigate accordingly.

It is so much easier for parties who are entering a business transaction to record the terms of their deal at the outset, rather than argue about what

they thought was agreed when conflict has arisen.

Lawyers sometimes forget that we are facilitators. We need to give our clients the freedom to get on with their businesses, secure in the knowledge that we have provided them with the ability to do so, whether through the sale, purchase or letting of their commercial property, setting up or expanding their company or providing them with employment or terms of business contracts.

Strong commercial skills and an awareness of our clients' businesses and their deals are as important as having a good grasp of the law. For me, the commercial aspect of being a commercial property lawyer is what I find most rewarding.

Chris Groves and I provide a full commercial property service.

We have a wide spectrum of clients from individuals through to corporations, charities and pension funds and with over 57 years of qualified experience behind us, we have a huge bank of knowledge and expertise to help us deal with this wide range of transactions.

Chris and I work closely with Simon Whipp and Andrew Spencer. Simon is a company law expert and deals with the acquisition and disposal of private companies, joint ventures and shareholders agreements. As Principal of the Litigation team, Andrew provides specialist advice on the contentious and potentially contentious aspects of employment law, general commercial contracts and the relationship between landlord and tenant. Experience shows

that his calm, pragmatic and down to earth manner often prevents disputes from becoming unnecessarily protracted, personal and costly. The department is supported by three trainee solicitors, Dan Evans, Will Burnell and James McCulloch who assist with the day-to-day transactional work.

Commercial work of whatever nature often involves complex transactions within tight time scales. At Cozens-Hardy we aim to understand our clients' needs, having regard to the structure and ambitions of their organisations in the wider market. I would like to think that this department, and indeed the firm as a whole, deals with all matters in a practical and efficient way, ensuring that we provide balanced and clear advice.

FIRST NEW YORK, NOW LONDON!



Having successfully broken her marathon duck in New York last year, Principal Philippa Rudd entered this year's London Marathon to raise money for Mencap and Big C. In extremely hot and testing conditions, Philippa finished the race in 4hrs, 19mins and 32 secs and confirmed that the event was 'quite hard work really!' As one of more than 35,000 people to finish this year's event, Philippa was placed 15,248th overall, 3,128th of the ladies and 356th of ladies in her age group. Simply delighted with the monies raised for both charities - £1,748.31 for Mencap and £180 for Big C – Philippa's next self-imposed challenge is the Berlin Marathon in September. Go Philippa!

Pictured, left, Philippa Rudd after finishing The London Marathon in 4hrs, 19mins and 32 secs.

DISMISSAL LAW CHANGES

Employment Litigation specialist Andrew Spencer recently presented to the Norfolk Chamber of Commerce's HR Forum. Over forty HR professionals heard Andrew explain about the changes to dismissal law which came into effect on 6th April this year. These changes affect the way in which employers should handle dismissals, disciplinary and grievance issues – and a fact sheet on this subject is available under 'News & Events' on our website www.cozens-hardy.com



DISCRETIONARY TRUSTS - THE ADVANTAGES by Alistair Sursham



In the last issue of The Brief we looked at the new Inheritance Tax (IHT) rules and how these could save having to include Discretionary Trusts in wills. However I mentioned that those trusts could still have advantages and in this issue we explore that.

The new IHT rules which allow the transfer of an unused IHT threshold only apply to married couples and registered civil partnerships, not to others.

For example, in the case of an unmarried couple living together, if each partner makes a will leaving everything to the other, not only would IHT be payable when the first of them dies if his or her assets exceed the threshold (now £325,000) but also on the death of the surviving partner if his or her assets (which will then include

those inherited from the first to die) are over the threshold.

If, instead, the assets of the first to die passed into a Discretionary Trust from which the surviving partner could benefit, whilst it would not save tax on the first death, it would on the second as the assets in the trust would not come into the IHT reckoning on the survivor's death.

It may also be apt for grandparents to include Discretionary Trusts in their wills. Rather than leave assets direct to their own children, grandparents could put assets into a Discretionary Trust from which their own children could benefit but of which the grandchildren are the ultimate beneficiaries. The trust assets would not then be taken into account in the IHT reckoning when the children themselves died and the assets passed to the grandchildren.

Discretionary Trusts have advantages other than the saving of IHT...

If you wish to make provision in your will for someone who may not be able to make financial decisions, or who is vulnerable in some way, then a Discretionary Trust may well be the appropriate means of providing for that person, as it will be the trustees rather than the person who will make the decisions and who can protect the person from financial abuse.

Further, the assets in a Discretionary Trust are not usually taken into account in assessing any means-tested benefits to which a beneficiary may be entitled. So if you wish to leave assets in your will for someone who is entitled to any benefits such as council tax or housing benefit, then a Discretionary Trust could be the way forward.

Even if a person is not claiming benefits now, they may wish to do so in the future. In particular a surviving spouse or partner may need care or have to go into a home. For many people the risk of assets being reduced by the need to pay for care is a greater threat or worry than IHT.

To help protect assets from this, rather than leaving all their assets to each other outright, spouses could leave assets up to the amount of the IHT threshold in their wills to a Discretionary Trust. No IHT would be payable on the first death and the assets in the Discretionary Trust would not be taken into account in assessing help with fees if the surviving spouse required care or had to go into a home.

Cozens-Hardy LLP Hackers Golf Day – DATE ANNOUNCED!

As advertised in the last edition of The Brief, we are hosting a Hackers Golf Day event this year – and only those of you with a handicap over 18 are being invited!

If you play golf but never enter charity or networking golf events for the fear of being gently (or not so gently) ridiculed, then we have a date and venue for your diary: **Wednesday 8th July, Eaton Golf Club, Norwich.**

If you fancy an afternoon of friendly, not too serious, golf, with excellent networking opportunities (and a bite to eat to boot) then please contact either Julia Daber (tel: 01603 724650 and jadaber@cozens-hardy.com) or David Lonsdale (tel: 01603 724636 and djlonsdale@cozens-hardy.com). We have limited spaces available, so please contact us as soon as possible; and don't forget your clubs!