

# Cozens-Hardy LLP

A very warm welcome to the second edition of our new newsletter

## the Brief

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As the senior principal at Cozens-Hardy LLP, I'm pleased to say that we've had terrific feedback from our first edition, so thank you for taking the time to read our articles. Please keep your suggestions coming for topics you'd like to see covered in the future.

Of course the talking point with anyone in business at the moment is the economic slowdown – in fact, a recent business trends report confirmed that UK business confidence has plunged to a 16 year low, reflecting the deepening impact of the credit crunch together with rising food and energy prices. This points to a bleak short term view for UK businesses.

More difficult economic circumstances often require businesses to re-structure, to survive - and this is particularly true of small to medium sized businesses, 'SMEs'. SMEs are

the core of the economy in this region and of our client base and, just as we advised on past expansion, we are now advising on how to shape their business model in order to continue trading profitably.

Restructuring often involves redundancies and changing terms of employment and in this edition Andrew Spencer, our employment specialist here at Cozens-Hardy, gives some pointers about implementing redundancies in a way that will minimise the risks to the business. With almost no one I speak to forecasting anything better than a 'flat line' for their business in the next year, it is imperative that small business owners take the right steps now to ensure mid and long-term success.



# CONTRACTS - GETTING IT RIGHT

by Simon Whipp



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*Every business relies on contracts with its suppliers and its customers. Those contracts are fundamental to the success of the business and define what you pay and get paid. If they go wrong, the consequences can be disastrous. Generally smaller companies are not so good at their contracting procedures. There are a number of simple principles to follow that cut the risks:*

- Identify accurately the other party to the contract, and make sure it is the entity you intend to deal with. If it is a company, identify it by its company number as well as its name; companies can change their names or have confusingly similar names, but they cannot change their registered number. Company numbers can be obtained by a free search at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) (click on the WebCheck service)
- Read the contract and, if you do not fully understand it, take advice. It will be a false economy only to take advice when things have gone wrong
- Consider the risks of that particular contract. What is likely

to go wrong, and is that issue covered in the contract?

- Bear in mind that when you contract on the other party's standard terms and conditions they have been drafted for their benefit not yours. Do not assume the other party's standard terms and conditions are not negotiable - you will be surprised how often you can get away with crossing out provisions that you do not like. Look out for 'traps' like agreements that have obstacles to easy or early termination. An example would be agreements that can only be terminated on (say) three months notice expiring on the anniversary of the agreement
- If you have your own standard terms and conditions make sure that you (and any key staff) understand what they say and mean. Copying your competitors terms and conditions is not usually the best way of acquiring effective terms and conditions
- Be aware that the general law can over ride what you might try and agree in a contract. This is

particularly relevant to clauses that exclude or limit liability, and to contracts with consumers

- Often the negotiation process can lead to a number of quotations or proposals being produced. Do not enter into a contract before you intend to and before all the terms are to your satisfaction. A quotation or proposal from you may be capable of unilateral acceptance by the other party. If you do not want this, then put the words 'Subject to Formal Contract - acceptance of this quotation is not intended to create binding legal relations' at the top of quotations
- If you are concerned whether the company you are dealing with has sufficient money to pay you, or to resolve any problems with what they are supplying to you, consider guarantees either from its directors or a parent company. However, guarantees are technical documents, and unless you are very familiar with using them take advice to make sure they are enforceable



## FOCUS ON... PRIVATE CLIENT DEPARTMENT

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*Our 'Focus On' series has been designed to give you a flavour of the different departments here at Cozens-Hardy. This issue, we are looking at the Private Client Department through the eyes of solicitor Kathryn Ayrdon, who joined the department as a newly qualified solicitor in the Autumn of 2005.*

I don't know about you, but before I started my law career, I thought the 'Wills & Probate' Department was the domain of the stuffy old lawyer who sat behind a big leather-clad desk, took himself very seriously, dealt with matters at a snail's pace and only mustered up energy to blow the dust off the odd legal tome here and there.

That certainly isn't the case here at Cozens-Hardy. I joined the firm in October 2005 and have become part of what I think is a growing and exciting department in Norwich – very far from the image I had in my mind all those years ago. I moved to Norwich from London after training at a traditional Private Client firm, based in Lincoln's Inn Fields. My decision to move to Norwich was taken with some trepidation as I was moving in with my boyfriend (now husband) who was based here. Nearly three years on and one child later, I haven't looked back. I now feel like Norwich is 'home' and that is in no small part due to the fact that I enjoy my job – and working with my colleagues – so much.

Our department is headed up by Alistair Sursham who trained at the firm and qualified in 1980. He is well known across the region as an expert in his field and is highly regarded by both professionals and clients. The other solicitors in the department, besides me, are David Lonsdale and Michelle Collins, both of whom trained with Cozens-Hardy. The team is complemented by Legal Executives Barbara Pond and Lorraine Spelman, trainee solicitor Will Burnell and two highly competent secretaries, Sarah Mace and Louise Daynes.

The broad range of experience and qualification means that the department is well equipped to cope with anything from

basic wills to the more complex estates. We specialise in preparing bespoke wills for our clients and all of the team are well trained in dealing sensitively and compassionately with probate matters, taking the burden of dealing with an estate away from family members at what can be a difficult time.

But, of course, there is so much more to Private Client work than just 'Wills & Probate' (although we do that rather well); we also deal with trusts - for example, as a vehicle for tax planning, organising family assets or sorting out co-ownership issues for couples buying a property - tax advice and Lasting Powers of Attorney.

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## CHANGES TO INHERITANCE TAX

by Alistair Sursham



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Until last October, it was common for Discretionary Trust provisions to be included in wills to help reduce the Inheritance Tax payable on someone's death, but changes to the tax in the past few months mean it may no longer be necessary for some people to have those trust provisions in their wills just to save Inheritance Tax.

However it may still be apt for some (such as grandparents or unmarried couples who live together) still to include the trust provisions in their wills - and trust provisions may also

help protect assets from being used to meet care home fees.

In a series of articles over the next few issues of The Brief, we will be looking at the Inheritance Tax changes in more detail, exploring how wills can be used to reduce a potential Inheritance Tax liability and how and why trust provisions in wills not only have tax but also other advantages. As part of this we will also be discussing the question of care home fees and what can be done to protect one's home.

# EMPLOYMENT ISSUES

by Andrew Spencer



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## Redundancies

The slowdown of the economy means that many businesses have to consider staff cuts. At Cozens-Hardy LLP we understand the potential pitfalls and can guide you safely through the process.

Some of the key points for employers to take into account when considering or implementing redundancies are:

**1** The most common redundancy situation will arise where there is a closure of a business or a reduction in staffing numbers. However, redundancies can arise in other ways. For example, restructuring can result in redundancies even though the overall need for tasks to be done has not diminished

**2** Remember a redundancy is still a dismissal. You will be bringing someone's employment to an end. The redundancy might trigger a potential unfair dismissal claim if not handled correctly. Following the right procedure is crucial. In particular bear in mind:

- You must follow the mandatory three step dismissal procedure
- You should also make sure that you follow an individual consultation process with any potential candidates for redundancy
- In most cases volunteers should be invited before any compulsory redundancies are made

• If you are selecting candidates for redundancy from within a 'pool' of employees undertaking similar roles, remember that you must set up fair selection criteria to select candidates for redundancy. Avoid subjective criteria and opt for selection criteria that can be measured objectively

• Don't use 'last in first out' to select candidates for redundancy. This will often result in younger employees being selected for redundancy which can lead to you facing claims of unlawful age discrimination

• In most cases any alternative vacancies within the business should be offered to redundant employees as an alternative to redundancy

**3** Remember to plan ahead. Employees who are made redundant will still be entitled to be given notice of dismissal (or to receive a payment in lieu of notice). Act promptly to maximise savings

Remember, all employees with at least two years service will be entitled to a redundancy payment if they are made redundant. The amount of the payment depends on the age, length of service and gross weekly pay of the employee.

## At a Glance - Latest Legislative Developments

- 1** Corporate Manslaughter – legislation to introduce a new offence of Corporate Manslaughter and to strengthen the law to make the offence easier to prove. The offence is committed when a senior management failure which is a breach a duty of care leads to a person's death
- 2** Employment of illegal immigrants - new civil penalties are in force for employers who employ illegal immigrants without checking their entitlement to work in the UK and criminal penalties are in force for those who knowingly employ them
- 3** New national minimum wage rate announced (to come into effect in October 2008). Increased to:
  - £5.73 for workers aged 22yrs or over
  - £4.77 for workers aged 18yrs to 21yrs
  - £3.53 for workers aged 16yrs and 17yrs
- 4** New rates of Basic Rate Statutory Maternity, Paternity and Adoption pay are already in force. The new rate is £117.18 per week
- 5** The new rate of Statutory Sick Pay is already in force. The rate is now £117.18 per week