



# Turbervilles

Solicitors

Autumn  
2011



## Conveyancing Quality

Turbervilles Solicitors has become one of the first law firms in the country to obtain membership of the Law Society's prestigious Conveyancing Quality Scheme ("CQS") – regarded as the gold standard for residential conveyancing practices.

In order to secure membership of the scheme, Turbervilles and its staff underwent rigorous independent assessment by the Law Society. The award means that the firm has been recognised as meeting the highest standards in carrying out residential conveyancing work.

The Law Society introduced CQS earlier this year to help the public and others to recognise high standards in the home buying process and to deter fraud in the residential property market.

According to Law Society President Linda Lee, "CQS improves efficiency with common, consistent standards and service levels and enables consumers to recognise practices that provide a quality residential conveyancing service. Buying a home is one of the largest purchases anyone will make in their lifetime, so it is essential that it is done to the highest standard by a solicitor. There are many different

## Turbervilles awarded new Conveyancing Quality Mark

conveyancing service providers out there, making it difficult for home buyers to identify those which can ensure a safe and efficient level of service."

Andrew Cameron, Partner and Head of Property at Turbervilles said: "We are thrilled that Turbervilles has been awarded membership of the CQS scheme, which independently recognises that we provide high standards to our residential property clients. In difficult economic times and a very competitive market, the award of CQS to Turbervilles marks us out as a leading firm in this area."

To ensure that the high standards required by CQS are maintained, the scheme requires its members to undergo an ongoing process of training, random audits and annual reviews.

Membership of the scheme is only awarded to members of the Law Society. As a result of these stringent procedures, which are designed to ensure that only the best firms achieve membership, the CQS scheme is supported by the Council of Mortgage Lenders, the Building Societies Association, and the Association of British Insurers.

For more information on the Law Society's Conveyancing Quality Scheme visit [www.lawsociety.org.uk/cqs](http://www.lawsociety.org.uk/cqs), or contact the CQS Unit on 020 7316 5550 or [CQS@lawsociety.org.uk](mailto:CQS@lawsociety.org.uk).

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## Turbervilles appoints three new staff members to bolster its Employment and Family Teams

West London law firm Turbervilles has appointed two new solicitors and a senior Legal Executive as part of its ongoing expansion plans.

**Zoe Bedford** has joined the firm's Employment Department as an assistant solicitor from Clarkslegal LLP in Reading.

Zoe will be working closely with partners Robert Dixon and Marc Jones in relation to a broad range of work for both employer and employee clients.

Turbervilles' Head of Employment Law Robert Dixon said "Zoe is a valuable addition to our growing team, and we are delighted to welcome her".

Meanwhile, **Gemma Kemp** has been appointed senior Legal Executive in Turbervilles' Family Department. Gemma

joins Turbervilles from Hart Brown, where she gained wide experience in divorce and separation and financial disputes. She will support Kate Ryan in the Divorce and Finance Team.

Finally, **Kate Kilpatrick** will join the Family Department as an assistant solicitor following the successful completion of her training contract in September 2011.

Partner Kate Ryan, Head of Turbervilles' Family Department, said "We are thrilled to be able to support the firm's continuing expansion with the recruitment of Gemma and Kate. This is part of our ongoing plan to grow the department for the benefit of Turbervilles' clients".

Turbervilles has offices in Uxbridge, Hillingdon and Chorleywood."

# Husband loses his appeal to get more than £5m in divorce settlement

A husband has lost his appeal to be awarded more than £5m as part of a clean break divorce settlement.

The case involved a couple who had been married for nearly 20 years and had three children. The wife had inherited shares before the marriage and they were kept in her name. By the time the couple separated, the shares were worth £57m.

Neither the husband nor the wife worked during their marriage and lived off income from the shares.

Despite the wife's wealth, they lived modestly in an ordinary semi-detached house. They drove an ordinary car and no item in their home was worth more than £500.

When the wife decided to leave with her three children, she bought a similar modest house in the same area as the marital home. The husband, however, wanted to move to a London property worth £2m, buy a second home abroad worth £450,000 and drive a new car worth £60,000.

His assets at the end of the marriage were £300,000. His wife offered £5m as part of a clean break divorce settlement. The

husband wanted more but that was the figure awarded by the judge at the ancillary relief hearing. The husband appealed saying that the judge had failed to make an assessment based on the sharing principle applied when couples divorce.

However, the Court of Appeal has upheld the award of £5m. Giving the lead judgment, Lord Justice Wilson said the award "went further than very generously to meet the husband's needs".

He added that equal division did not necessarily follow from the sharing principle when wealth accrued by one party before the marriage was involved, as in this case. In fact, it was not unusual for one party to receive no share at all of the non-matrimonial property.

Please contact us if you would like more information about the law relating to matrimonial and family issues.



## Government considers views on inheritance tax plans

The Government is now considering views put forward by the public and various organisations on its plans to reduce inheritance tax (IHT) by 10% for estates that support charities.

The proposal is to reduce IHT by 10% when at least 10% of an estate is left to charity. This would reduce IHT from the standard 40% to 36% for qualifying estates.

Research by the Financial Times suggests 5,000 people a year will increase their charitable donations as a result of the tax cut, which is due to come into effect in April next year. The move is expected to cost the Treasury an estimated £170m by 2016.

The Treasury has begun a consultation on the best way to implement the policy. Justine Greening, Economic Secretary to the Treasury, said: "The British public



are some of the most generous donors to charitable causes in the world.

"This reduced rate of IHT should provide an extra incentive for people to use their estate to support worthy causes and we very much hope that this consultation will mean we can get the details right

so it can make a real difference." The inheritance tax threshold is currently £325,000. Last year, IHT was paid on more than 15,000 estates in the UK.

Please contact us if you would like more information about the issues raised in this article or any aspect of IHT.

## Court orders that girl should live with her grandmother

A court has ordered that a girl should live with her grandmother because her parents are not capable of looking after her properly.

The parents had what was described in court as a "tumultuous relationship". They had left their daughter with her maternal grandmother when she was one and a half years old.

They later took her back but the authorities became concerned that they weren't providing her with adequate care. Proceedings began and during a fact-finding hearing it was found that the mother was "volatile, unpredictable and

confrontational". She had also made several allegations that the father had been violent towards her. She had often called for police assistance but then withdrew the allegations. The father denied that he had been violent.

The hearing found that the mother had failed to provide her daughter with safe and stable accommodation. The local authority invited the judge to make a special guardianship order placing the girl with the grandmother.

Both parents opposed this as they wanted to look after their daughter themselves.

However, the judge found that she was unable to believe anything the mother said and she was also scathing about the father. The court granted a special guardianship order in favour of the grandmother. It also made an order preventing any further applications by the parents for two years and four months.

The parents took the case to the Court of Appeal but that has upheld the judge's decision.

Please contact us if you would like more information about issues relating to family law.

# One in 20 people 'move home due to neighbour disputes'

One in 20 people have moved home because of problems caused by bad neighbours, according to new research.

A survey of 2,000 people conducted by the life assistance company CPP found that disputes can arise for a variety of reasons.

Home and garden maintenance accounted for 27% of disagreements. Other flashpoints included excessive noise, trespassing children and stolen parking spaces. Boundary issues accounted for 7% of disputes.

Bad neighbours can make life a misery for some people and it is understandable that they want to move home. However, many problems that seem impossible to deal with can be resolved with a little professional help.

It is usually better for disputes to be settled amicably, but if this isn't possible

## disputes'

then both sides should seek legal advice before attitudes begin to harden.

Clarification of the legal position may help resolve the problem right at the outset. If there is still a disagreement then a solicitor may be able to help arrange mediation so that a settlement can be reached that is fair to both sides.

This approach is usually far less stressful than going to court and it may help you to maintain a good working relationship with your neighbour. This is very important as you may have to live alongside each other for many years to come.

If agreement still can't be reached then



litigation may become necessary. It is then even more important to get sound legal advice so that the dispute doesn't escalate to a point where the costs involved are out of proportion to the value of the claim.

Please contact us if you would like more information about dealing with neighbour disputes.

# Widow 'entitled to a house' from her partner's estate

A court has ruled that a woman was entitled to be provided with a house from her partner's estate, even though he had died without making a will.

The couple had been in a relationship for five years and although they had become engaged, they had never married.

They bought a property together in Spain and lived in it for five years. They sold it and shared the proceeds when they decided to return to the UK. They then bought a house in Wales but the man paid for it and it was put in his sole name. The

couple believed this would provide tax benefits as the woman already owned a home which she rented out.



The man then drew up a draft will in which he left the house in Wales and his pension valued at £35,000 to his partner. The rest of his estate was to pass to his sons.

However, he developed cancer and the will was never made. He therefore died intestate, which meant all of his estate would pass to his sons. The woman then applied for reasonable provision from her partner's estate.

## Woman receives £30,000 damages after fall in shop

A woman has been awarded £30,000 compensation after injuring herself when she fell while shopping.

The accident happened when the woman was walking through the basement floor of a large store. The floor was on two levels due to the presence of a ramp.

She didn't notice the change in level and fell over, hitting her face on a shelving unit before landing on the ground.

She suffered a broken nose, fractured wrist, displaced septum and a whiplash injury to her neck. Her vocal chords were paralysed on one side and she had problems swallowing.

The woman, who is 66, had to undergo substantial medical treatment and was left with permanent symptoms

including a tired voice, hoarseness, difficulty swallowing some foods and a reduced sense of smell.

She brought an action against the store alleging that it had been negligent in failing to mark the change in floor levels, failing to fence off or install protective railings around the slope and failing to ensure her safety while on the premises.

The store admitted liability and compensation of £30,000 was agreed in an out-of-court settlement.

Anyone who is injured as a result of someone else's negligence is entitled to claim compensation.

Please contact us if you would like more information about making a personal injury claim.

The court held that the law relating to intestacy had not made reasonable provision for her. She needed a home which would allow her to continue earning an income from the property she owned and rented out.

The court held that she should be allowed to buy a house with a purchase price of no more than £110,000. She would be allowed to live in the house for as long as she wished but it would be held on trust and would pass to the sons after she died.

The best way to prevent cases like this is to make a will and ensure that it is kept up to date. That will help to avoid heartache and expense for your loved ones. However, as this case shows, if a person fails to make a will there are still steps you can take to protect your interests.

Please contact us if you would like more information about matters relating to wills and probate.

# Employee told to change his name wins tribunal case

A man of Indian origin has won a claim of race discrimination after being told he had to use an English name while he was at work.

Rahul Jain worked in the telesales department of a software company in Leicester. The company told staff of Indian origin that they had to use English names instead of their own in emails and when speaking to customers on the phone. They were told this was to avoid spelling mistakes by customers.

Mr Jain adopted the name Rob. Other staff also used English names. For example, Aarti became Anna, Mehul became Max, and Meera used the name Marie. White employees were not asked to change their names.

Mr Jain was later made redundant and brought a claim of race discrimination. The employment tribunal agreed that he had been treated less favourably than white colleagues because he had not been allowed to use his own name at work.

Commenting on the case, employment law barrister Daniel Barnett, said: "This is one of the first decisions under the Equality Act 2010, which replaced the Race Relations Act 1976 last October. It shows that tribunals will not shy away from controversial decisions. The tribunal has invited the



parties to agree compensation. If they cannot agree, it will be assessed in a few months. Mr Jain has not suffered any loss of earnings because of this discrimination, but is likely to receive around £5,000 for injury to feelings.

"Despite everyone accepting the employer was well-motivated, the tribunal rejected an argument that the employer's rule was justified by its desire to avoid misspelling of names on emails. Although it is not illegal to ask somebody to work under a pseudonym, it is unusual employment practice and becomes unlawful if the requests are only made to employees from a particular ethnic group."

Please contact us if you would like more information about race discrimination claims or any aspect of employment law.

## Mother is prevented from taking children to Canada

A mother has been prevented from taking her two children to Canada because it would have disrupted the shared care arrangements with the father.

The mother was from Canada but had met and married her husband in England. The couple had two children together. When they separated, a shared residence order was made which meant that the children spent five days out of 14 with the father and the other nine days with the mother.

The mother began to feel isolated and decided to return to Canada to live with her parents who could offer her support. She applied for permission to take the two children, aged two and four, with her. The father contested the application based on the shared care arrangements and his commitment to the children.



An officer from CAFCASS, the organisation that protects the interests of children, concluded that the balance came down against the move and recommended that the application should be refused. The judge, however, was concerned about the effect refusal would have on the mother and granted the application, stating that the father could visit the children in Canada.

The Court of Appeal has now overturned that decision. It said the judge had rejected the CAFCASS officer's recommendation without proper analysis or explanation. She had not balanced all the pros and cons when reaching her conclusion and should have

given more weight to the fact that the father was providing regular care.

Please contact us if you would like more information about family law issues.

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