



## Divorcing couples must consider mediation before court action

All divorcing couples now have to consider mediation before they are allowed to go to court to resolve any disputes.

This rule was originally brought in for couples using legal aid and was extended to include all couples on 6<sup>th</sup> April.

The person disputing the divorce terms now has to go to a professional mediator who then contacts the other spouse to arrange a mediation awareness session. The divorcing couple can attend individually or together.

If they or the mediator decide that mediation is not appropriate then they will be able to proceed to court. However, they cannot go to court unless they can present evidence that they have attended the mediation awareness session.

The regulation does not apply to couples who do not need to use the courts to reach a settlement. Nor does it apply in cases involving issues of domestic violence or child protection. Such cases can still proceed straight to court.



Mediation is an informal process in which a trained mediator, such as a solicitor, helps the couple to resolve difficult issues amicably. The mediator can arrange meetings on neutral premises.

The mediator's role is to act as a facilitator to help the couple share information and reach an agreement. It is not to favour one side or the other.

Once the couple reach agreement, the mediator will record it in two summaries. Both husband and wife should then give those summaries to their respective solicitors so they can form the basis of a consent order.

Please contact us if you would like more information about mediation or any aspect of family law.

## Inheritance tax cut if you support charity

One of the Chancellor's more generous measures in the Budget was to cut tax on estates that support charities.

George Osborne said that if at least 10% of the estate is left to charity, then inheritance tax (IHT) will be cut by 10%. This would reduce IHT from the standard 40% to 36% for qualifying estates.

The measure, known as 10 for 10, will come into effect in April 2012. It's hoped the move will encourage more

people to leave money to charity in their wills.

The inheritance tax threshold is currently £325,000. Last year, IHT was paid on more than 15,000 estates in the UK. Many people may wish to reconsider their will and their inheritance planning in the light of Mr Osborne's announcement.

Please contact us if you would like more information about wills and inheritance planning.

## Consumers should 'be wary' when buying legal services

The Legal Ombudsman has urged people to be wary of getting legal services from unregulated and often unqualified providers.

Chief Ombudsman Adam Sampson revealed that he has received 40,000 complaints about law practitioners since his office was set up last year. His team has not been able to deal with many of the complaints because they are against people who are not qualified solicitors. He said: "We've seen lots of cases where people have had deficient wills where we haven't been able to help."

The problems stem from the fact that there is no regulation covering some legal services such as wills, conveyancing or divorce. It means anyone can set up in practice offering these services even though they may not be properly qualified or have any insurance. Consumers may be attracted by cut price deals but they may have no form of redress if things go wrong.



Solicitors, by contrast, are strictly regulated which means they can be held accountable if they make mistakes.

The legal services market is to be opened up to more providers in October. It will enable a wide range of businesses to enter the market and Mr Sampson fears that the distinction between regulated and unregulated providers will become more blurred: "This problem will only increase as the legal services market reforms, and internet-based provision and commoditisation of legal services increases."

People will need to think very carefully before making life affecting decisions based on legal advice from providers who may not be qualified or insured.

Please contact us if you would like more information about the issues raised in this article.

# Soon it could be easier to build your own home

The Government wants to make more land available for people who want to build their own homes.

It also wants to cut red tape and remove other barriers that often prevent self-build projects getting off the ground.

Taken as a group, self-builders account for one in five of Britain's new homes each year.

That means that collectively, they are already the country's largest house builder. However, the UK still has a lower proportion of self-build homes than

many other countries in Europe. Ministers believe bureaucratic barriers are to blame.

The Housing Minister Grant Shapps has announced plans to strip away some of the red tape that he believes has often thwarted the aspirations of people who want to build their own homes.

Mr Shapps said the Government will also make some publicly owned land available for self-build projects.

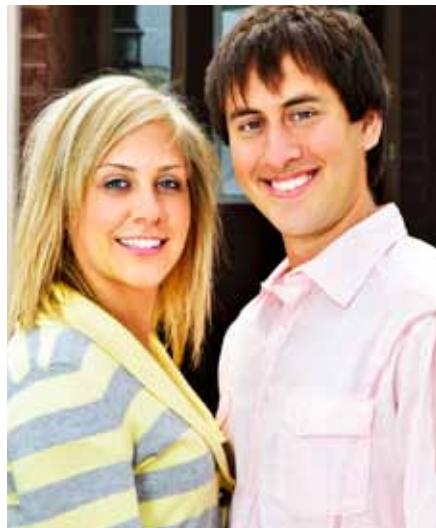
He called on private investors, local authorities and housing associations to



do the same and show their support. The Government recently set up a working group, led by the National Self-build Association, to offer advice on what action is needed to reduce bureaucracy.

Mr Shapps said: "Self-builders deliver affordable, greener and more innovatively designed homes; and make a big contribution to the number of new homes built in this country, yet there is scope to significantly increase the number of self-built homes in the UK - both for individual households and for community-driven projects.

"I want to turn around the fortunes of self-builders by cutting the red tape and bureaucracy they often face and make self-build a reality for many more people.



by the lack of a large cash deposit. By making up to £250m available over the next two years for deposits on new build homes, this Budget shows that we are serious about sorting this out, and supporting our construction industry to build more homes, create new jobs and increase the pace of economic growth."

The first new homes are expected to become available in September.

Please contact us if you would like more information about the issues raised in these two housing articles or any aspect of buying and selling a home.

## Couple win the right to have contact with grandchildren

A couple have won the right to have supervised contact with their grandchildren.

The case involved two children aged 10 and 12. The parents were separated and involved in a dispute about contact.

There was a court order in place banning the father from approaching the children's school. The mother discovered that he had sat in his car close to the school and so she applied to the court to commit him to prison.

The allegation was supported by police evidence so the court ruled that the order had been breached and the matter was adjourned for sentencing.

The court then had to decide whether to grant an application for contact by the paternal grandparents.

The judge said that grandparents often had a capacity to provide a sense of normality as they were usually above the dispute between the parents. They could provide a way for children to stay in

touch with the absent side of the family. The court decided that a single, supervised two-hour visit should be arranged at a contact centre. The father could not be present or make telephone contact.

A report would then be drawn up following the meeting so that the court could consider the matter further.

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

# Woman bullied by colleagues is awarded £141,990

A Brazilian woman who was left an emotional wreck after being bullied by her work colleagues has been awarded £141,990 compensation for racial discrimination.

Licia Faithfull, from Tunbridge Wells in Kent, was mocked because of her voice and her accent. An employment tribunal heard that she suffered abuse for 18 months.

Her work colleagues taped her voice and then mimicked her as they played it back to her. They compared her to the squeaky-voiced children's TV character, SquareBob Square Pants.

They also asked if she was on drugs because she was from South America, and they called her cranky and lazy. Her achievements at work were overlooked while other employees were rewarded with cash and vouchers.

The tribunal heard that when she started work in April 2007, she was an "enthusiastic and exemplary" employee. By the time she resigned at the end of 2008, she was suffering from post-traumatic stress and depression, and she had a fear of public places because of the constant bullying.

Judge Gill Sage said she found Mrs Faithfull to be "an honest and reliable" witness who had endured a most serious case of discrimination.

"There was substantial evidence that these employees were engaged in bullying, which was contrary to the respondent's own bullying and harassment policy." Mrs Faithfull was awarded a total of £141,990 in compensation.

Please contact us if you would like more information about claiming compensation for discrimination in the workplace.

## Law Society campaigns for will writers to be regulated

The Law Society is campaigning for a strict regulation system for all will writers to prevent consumers being exploited. It says that wills contain some of the most important financial and personal decisions that people ever have to make.

In spite of this, will writers who are called upon to help people make those decisions don't need to have any qualifications and are not subject to any regulatory control.

Law Society spokesperson Linda Lee said: "Anyone in England and Wales can operate as a will writer. Many of those calling themselves will writers may have purchased a franchise to do so and are free to prepare wills without any training or insurance protection.

"The fact that most problems are detected after the individual has died is a strong argument for establishing a robust regulatory framework."

In contrast to other will writers, solicitors are subject to strict regulations so when they draw up a will they have to comply with the highest professional standards.



Lee said: "It is extremely important to talk to a solicitor who can make sure that the will is expressed in a way that is legally watertight. A solicitor will also be able to advise on complex



financial issues such as inheritance tax and trusts planning. Solicitors are all trained and regulated. They are required to have adequate insurance to protect the public."

Research by the Law Society found that most people are unable to distinguish between regulated will providers such as solicitors and other providers who are not regulated. However, 82% of people surveyed said they would be prepared to pay more to have their will drafted by a regulated provider who had a formal complaints procedure and a compensation scheme.

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

## Homeowner wins appeal to remove trespassing pipes

A homeowner has won his appeal to have an irrigation system consisting of pipes and cables removed from his land.

He was able to satisfy the Court of Appeal that the equipment trespassed on his property, having been put there by his neighbour to irrigate the hedge that divided the two properties.

The dispute arose when the homeowner moved into his new house. He saw the irrigation system and asked his neighbour to remove it. The neighbour responded by saying that an injunction would be sought if there was

any attempt to interfere with the pipes. The homeowner then took legal action seeking a declaration of the proper line of the boundaries.

He also made a separate claim for trespass by the irrigation system, and sought orders for its removal and for his neighbour to make good any damage.

At the court hearing, the neighbour said he had installed the system in 2004 to irrigate a laurel hedge. He then moved it behind the hedge following a complaint by the previous owner of the adjoining property. Nevertheless, the judge concluded that he was not satisfied that

the pipes and cables at the centre of the dispute had been put there by the neighbour and so therefore trespass had not been proven.

The Court of Appeal described this as an "astonishing conclusion" in view of the evidence, including the admissions made by the neighbour himself. It ruled in favour of the homeowner and granted his appeal that the pipes should be removed.

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

# Grandparents help to bankroll younger generation

We've become familiar with the idea of the Bank of Mum and Dad helping young people struggling in the recession. Now it appears that grandparents are also becoming increasingly involved in helping out the next generation.

A national survey of 1,200 retired homeowners revealed that 23% had raised money from their own properties to help their grandchildren. The average sum was more than £23,000. The money was used to help family members buy a home, a car or just clear debts.

It is only natural that people should want to help their grandchildren but great care should be taken when handing over large sums of money, especially if it involves releasing some of the equity in your home. It is essential to get legal advice before taking any major decisions.

It's also important to consider potential tax implications. If you exceed your annual inheritance tax allowances then you would need to live for at least seven years after making the gift to make sure there is no tax liability after you die. One approach is to make use of your annual inheritance tax exemptions.

You can currently give away £3,000 a year without having to worry about any tax implications. Both grandparents qualify



for the allowance so between them they can give away £6,000 every year. Grandparents should also consider making use of the exemption available if they make regular donations taken from their surplus income.

There are some stipulations to be met but as long as the money is from income over and above your everyday needs then there should be no inheritance tax liability. Inheritance tax planning can be complicated so it is important to get it right in order to avoid problems for your family in the future.

Please contact us if you would like more information about the issues raised in this article.

## Judge was wrong to stop father's contact with daughter

The Court of Appeal has ruled that a judge was wrong to make a "draconian" order that prevented a father from maintaining contact with his daughter.

The case involved a couple who had separated when their daughter was just three months old. The mother was granted residence and the father was allowed to maintain contact.

Twelve years later, the mother applied to have the contact order discharged because she said her daughter no longer wanted to see her father.

The hearing heard conflicting evidence. A psychiatrist's report recommended that contact should continue because

there was a strong bond between father and daughter.

However, a report by an officer from CAFCASS, the agency that protects the interests of children in court cases, recommended that contact should cease because the daughter felt intimidated by the father's wife.

Emails were then discovered in which the daughter expressed happiness and excitement about seeing her father. These were not mentioned in the CAFCASS report and the writer of the report did not attend the hearing.

The judge took the emails into account but granted the mother's application

to discharge the contact order. The Court of Appeal has now overturned that decision, which it described as draconian.

It held that the CAFCASS officer who wrote the report should have been present to give evidence at the hearing.

This would have made it possible for other solutions to be explored and it would also have given the father the chance to cross-examine the officer in the light of the emails.

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