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Planning is key to safeguarding and building a business

Family business lawyers point to succession success

LATIMER Hinks solicitors, one of Darlington and County Durham's longest established law firms, has a team of family business experts on hand to help drive companies forward.

The firm has a commercial law team of experienced legal professionals who can provide the legal help and assistance businesses and their owners need. The team possesses high levels of expertise – levels normally associated with city based law firms.

Approachable, knowledgeable and above all supportive, the firm prides itself on dealing with matters swiftly and to provide clear, concise and practical advice.

Anne Elliott, a Partner at the firm, is a specialist in one of the key issues that all family businesses face: succession planning. Identifying a successor or successors in a way which ensures the best outcome possible is a major factor in the process.

Anne said: "In this economic environment, succession planning is more important than ever. Business owners must take the best course of action possible to safeguard their business, their bottom line, cash flow, assets and workforce.

"That might not necessarily mean handing down to a family member. It is a case of making the right choice for the future of the business and all involved, based upon solid, logical reasoning and professional advice, often being dispassionate and putting sentiment aside – family members may not necessarily have the right skills to take the business forward."

Anne says the first part of the process is always establishing what the desired outcome of the succession is. Then, a business owner should look at a plan for anything up to five years, broken down into stages, each with their own timescale.

"You need to establish if the people you would like to take over the business have the right skill sets and abilities, then find out if the potential successors are willing to assume the role you have identified for them," says Anne. "Once you know the direction you want to move, enlist expert advisers to make sure that any plans are legally watertight, are tax efficient and minimise the potential for challenge by or conflict among family members."

Anne added: "Succession planning is not something to go into lightly, nor is it something that can be ignored."

Another strand to succession planning is handled by Partner Nick Poole, who deals with shareholder agreements - referred to as "company wills".

Nick said: "The "company will" is an agreement we deal with on a very regular basis. Its purpose is to get business owners to look at a number of "what ifs" covering lifetime and death situations.

"Those "what ifs" apply equally whether the business in question is an LLP, Partnership or limited liability company.

"In one case I know of, one of three business partners died. There was no shareholders'



Partners Nick Poole and Anne Elliott and their approaches to succession planning.

agreement and it took 15 years for terms to be agreed for the purpose of the purchase of the deceased's share in the business.

"I have, over the years seen far too many business people who have lived to regret not having a "company will" (or indeed any will at all!). My simple advice is to make sure you deal with shareholder issues and your will whenever you go into business with anyone."

For more information about Latimer Hinks' services, visit www.latimerhinks.co.uk or call 01325 341500.



STEP Members: Natalie Palmer, Anne Elliott, Andrew Way, Elizabeth Armstrong and Gillian Ibbotson

Solicitors at Darlington law firm gain prestigious qualifications

Natalie Palmer and Gillian Ibbotson of the Private Client Team at Latimer Hinks Solicitors are celebrating their success after passing their Society of Trust and Estate Practitioners (STEP) exams.

They bring to five the number of STEP members in the Private Client Department Team at Latimer Hinks, with Anne Elliott, Andrew Way and Elizabeth Armstrong all existing members.

Natalie, 33, and Gillian, 29, have gained their STEP qualifications complying with a rigorous code of professional conduct and having passed four exams tailored exclusively to the jurisdiction in which they practice.

STEP is the leading worldwide professional body for practitioners in the fields of trusts, estates and related issues and aims to promote the highest professional standards. As a requirement members must at all times act with integrity and in a manner that inspires the confidence, respect and trust of both clients and the wider community.

STEP qualifications demonstrate a sound knowledge of trusts and estates that is converted into practical, applied competence. Full members of STEP are the most experienced and senior practitioners in the field of trusts and estates and are recognised as the experts to whom others turn for good quality advice.

Gillian, who joined Latimer Hinks in 2004 as a secretary/paralegal and subsequently qualified in 2009, said: "We're both over the moon to have achieved such a recognised qualification as it shows our specialism in the ability to provide quality service in the field of trusts and tax planning.

"STEP members do great work for people at difficult points in their life and we're proud to be associated with this organisation."

Natalie, who has been with Latimer Hinks since 2000, said: "STEP qualifications are notoriously difficult to achieve due to the extremely high standards the exam board sets.

Juggling working full time and studying at evenings and at weekends has been immensely difficult but it has all been worthwhile. We can now use the designation TEP which adds a degree of recognition and assurance for our clients that we have a real understanding of the issues with which we're dealing."

ALA fellowship boosts Latimer Hinks partner

Latimer Hinks Solicitors has been boosted by a new qualification for one of its Partners. Nicola Neilson has been made a Fellow of the Agricultural Law Association (ALA), following periods of residential study and an examination.

This qualification builds on Latimer Hinks' existing specialist team in this field of law, with Senior Partner Tim Haggie, and Partners Anne Elliott and Neil Stevenson also being highly recognised in agricultural law.

Tim has twice been cited in the prestigious Legal 500 publication for his work in agriculture and estates. ALA members Anne and Neil have also been referenced in the directory.

Nicola's Fellowship adds to her existing membership of the ALA, and she is also a member of the council of the Tees Valley Law Society, of which she is also a past President and Lawyer of the Year.

Senior Partner Tim Haggie said: "Nicola's expertise in agricultural law is a real bonus to Latimer Hinks Solicitors, as it adds further proven depth to our team in an area which is very important to the rural communities we serve.

"We are very proud of the firm's ability to serve the rural community knowledgably and professionally, and this is a strong part of Latimer Hinks' constantly growing presence in the region."

Reasons for overturning a will

Before making the decisions to contest a will anyone considering such a step needs to understand that there are very limited legal grounds for doing so. This makes perfect sense as a will is intended to show the wishes of only one person – the individual whose will it is.

The means of challenging a will that is most often successful is on the grounds that it was not drawn up in a valid manner. Such a challenge would normally revolve around a number of arguments: that the deceased was not of sound mind (in legal language, "lacked testamentary capacity"), that unfair influence was exerted upon them by an interested party, that they were under the age of 18 when they made the will, or that the will was not signed in the presence of two witnesses who are not beneficiaries in the will.

However, even under most of these circumstances, it is an exceptional occurrence for a court to overturn a will. If you feel that the final will of a loved one does not for whatever reason represent their true wishes, however, we will be happy to advise you on a recommended course of action.





The Latimer Hinks Charity Ball 2010.

2012 ball aims to raise thousands for local charities

Latimer Hinks Solicitors is hoping to equal its record fundraising success when it holds its 2012 charity ball.

The last Latimer Hinks Charity Ball, in 2010, raised £11,500 for Help For Heroes, St Teresa's Hospice and several smaller local charities.

This year, the organisers are hoping the event, at Wynyard Hall on May 18th, will achieve similar results, or even better, for The Soldiers Charity, St Teresa's Hospice and, once again, other local charities.

The evening will include a four-course meal, entertainment from the band Huge, which played at the 2010 ball, a charity auction, raffle and more.

Latimer Hinks are looking for donations for the auction and raffle, with donors being acknowledged on the evening and in supporting literature.

Anne Elliott, Partner at Latimer Hinks, said: "The Latimer Hinks Charity Ball was a huge success in 2010 and we are hoping that, through The Soldiers Charity, we can once again support our troops.

"The Soldiers Charity provides lifetime support to soldiers, ex soldiers and their families, so through this very worthy charity and the fabulous work of St Teresa's Hospice and the other charities, we hope this year's fundraising will see thousands of pounds being put to very good use."

If you would be interested in donating a raffle or auction prize please contact Andrea Tobin on 01325 341507 or email at@latimerhinks.co.uk.

All donations will be greatly appreciated and acknowledged in relevant promotional material.

Don't let gifts give your loved ones trouble when you are gone

Latimer Hinks Solicitors is highlighting the dangers of making financial gifts without taking care to protect the beneficiary.

The warning comes after a case in which a Midlands man was left having to repay a £61,000 cheque to the estate of his partner, after the High Court ruled he could not prove it was a gift.

After the court ruled the money must be treated as a loan and, therefore, would have to be repaid, 72-year-old Leonard Taylor must also pay legal costs of up to £100,000, after a failed bid to overturn the decision at the Court of Appeal.

Having been left the home he shared with his partner Doris Luker, 22 years his senior, along with her car and £28,000 in cash, the ruling means Mr Taylor may need to sell the house and car to pay for the case, which had been brought by the executor of the will (backed by charities who were also beneficiaries under the will).

Although unmarried, the couple lived together for 15 years at the home in Birmingham and Mr Taylor was his partner's sole carer for the three years leading to her death in October 2003.

Andrew Way, Partner at Latimer Hinks said: "Had this couple been married, it would have been very different. The money would have been assumed, under the legal 'presumption of advancement', to have been an outright gift. However, as they were unmarried, the law presumes that the payment of the money implies an obligation of repayment, unless there is any evidence to the contrary.

"Giving money, particularly later in life or when the donor is ill, is not something which should be done without real care and attention, as well as professional advice.

"Far too often, gifts – and even investments – and how they are made, the contents of wills, or the passing of a business to new ownership following a death, can lead to legal wrangling and additional heartache, so it is important that people consider taking advice if they want to ensure that their objectives are achieved."



Latimer Hinks

Solicitors for families, businesses, farmers & landowners

Contacts and services

you & your family

An understanding approach to house buying and selling, long term care and retirement, wills, trusts and probate and financial and debt problems.

Private Client Team: Anne Elliott, Andrew Way, Elizabeth Armstrong, Natalie Palmer, Helen Thomas, Gillian Ibbotson, Nadine Sweeney, Kelly McLoughlin, Daniel Williams, Mary Everitt, Claire Conway, Julie Porter

Residential Conveyancing Team: Nicola Neilson, Martin Williamson, Dorothy Price, Victoria Moremon

Litigation: Mark Gardner

business & commercial

Advice on commercial property law, employment and contract law, selling a business and succession planning, dispute resolution and debt recovery.

Commercial Team: Nick Poole, Anne Elliott

Commercial Property Team: Tim Haggie, Neil Stevenson, Nicola Neilson, Victoria Moremon

Litigation: Mark Gardner

farmers, landowners & landed estates

Knowledgeable legal expertise in land sales and purchases, land option agreements, tenancy agreements, diversification schemes and renewable energy developments.

Agricultural Team: Tim Haggie, Anne Elliott, Neil Stevenson, Nicola Neilson

Litigation: Mark Gardner

Private Client Team: Anne Elliott, Andrew Way, Elizabeth Armstrong, Natalie Palmer, Helen Thomas, Gillian Ibbotson, Nadine Sweeney, Kelly McLoughlin, Daniel Williams, Mary Everitt, Claire Conway, Julie Porter

Protect your property

Latimer Hinks Solicitors is urging home and land owners to take special care protecting their property by investing time into checking out their boundaries and making sure that they don't have squatters.

Martin Williamson, Head of Residential Property at Latimer Hinks, said: "Mention squatters and most people think of someone who has made themselves at home in an empty property. But squatters' rights, or adverse possession as it is known in law, can happen in all sorts of property ownership situations, including boundary disputes.

"Squatters can easily turn into a property owner's worst nightmare and in a tougher property market, buyers are more likely to dig deeper and come across such problems."

Adverse possession is the law's way of barring stale claims to land and recognising lengthy possession as giving a kind of title to land. The Land Registration Act 2002 sets out the requirements and procedure for claiming what is known as possessory title.

To be successful, the person claiming must where the land in question has a registered title, have been in possession or control of the land in question to the exclusion of the legal or paper owner for at least ten years. Slightly different provisions apply if the land is unregistered. If the paper owner interrupts the squatter's possession, even for a short period, the ten year period begins again.

A recent case, which went all the way to the Court of Appeal, has highlighted just how far the paper owner must go to secure that interruption.

In 2002 Mr and Mrs Zarb bought a house next door to Mr and Mrs Parry. Some years earlier a strip of garden had been sold by the Zarbs' predecessor to the predecessors of the Parrys. The buyers thought that the boundary was marked by a hedge on the land, but this was about 12 feet beyond the true boundary.

When the Zarbs discovered the error in 2007, they decided to take back what they believed to be their land. They went onto the disputed strip, removed a tree and some fencing erected by the Parrys and started to put in fence post along the actual boundary line shown in the deeds.

But they had been there for only twenty minutes when the Parrys discovered them and made them leave. Subsequent negotiations, with expert advice, aimed at agreeing the disputed boundary, failed and the neighbours went to Court, finally ending up in the Court of Appeal, where the Zarbs tested what amounted to "interruption" of adverse possession. They also claimed that the ten year period had not been satisfied, arguing that their predecessors had given consent for possession of the strip of land.

The Court of Appeal agreed that the true boundary was where the Zarbs thought it was, but judged that the Parrys had acquired ownership by lengthy squatting, saying that the 20 minute action by the Zarbs did not amount to interruption. The Court ruled that interruption required the paper owner to have exclusive control of the land, even if that control only lasted a short time, which had not been satisfied in this case.

Martin Williamson commented: "If the Zarbs had been more careful in checking the situation when they bought the property, or in taking advice on how they could lay claim to the land, they would have stood a stronger chance of a successful outcome.

"This case highlights once again how important it is to investigate any issues over boundaries or the like. Once matters have been aired and settled, then the outcome should be recorded in the deeds. If things can't be resolved amicably, then this sort of dispute is best dealt with by mediation. Going to court is a very costly and lengthy option."

Martin added: "If you are selling your property it is absolutely vital to be open and truthful about any boundary disputes or discrepancies. If you do not volunteer full details you might find yourself some years later being sued for misrepresentation."

Simply call to contact the Latimer Hinks Team

Tel: 01325 341500