

# Rightfocus

## Private paying care home residents should seek urgent review

**Latimer Hinks is urging anyone who has been personally responsible for payment of care home fees to seek advice well in advance of a 30 September 2012 deadline – as they may be entitled to a refund of care fees if they are found to be or have been eligible for NHS Continuing Healthcare.**

NHS Continuing Healthcare (“NHS Healthcare”) is a care package provided outside of a hospital setting, arranged and funded solely by the NHS, for people with ongoing healthcare needs. This includes people who have a “primary health need” (i.e. their main or primary need for care relates to their health) for which they require a good deal of care and support, and people who need specialised nursing support.

Eligibility is not assessed by reference to a particular disease, diagnosis or condition, or who provides the care, or where that care is provided.

**Potential claimants who were in receipt of nursing care between 1 April 2004 and 31 March 2011, who have or have had a “primary health need”, and who have paid for their care whilst potentially being eligible for NHS Healthcare, must submit a claim no later than 30 September 2012.**

**The claim deadline for those who received care between 1 April 2011 and 31 March 2012 is extended to 31 March 2013.**

Natalie Palmer, a Partner in the Private Client team at the Darlington-based firm of Solicitors commented: “It is vitally important that anyone who thinks they may have paid care fees whilst being eligible for NHS Healthcare seeks advice as a matter of urgency.

This applies particularly to those receiving care prior to 31 March 2011, as the cut-off date is imminent. An assessment can also be undertaken retrospectively for anyone who was in receipt of care since 1 April



**Natalie Palmer**



**Helen Thomas**

2004 and who has subsequently died.”

“NHS Healthcare is free, and unlike social and community care services provided by local authorities, is not dependant on an individual’s income and savings.”

### Welcome to the September 2012 edition of Rightfocus...

This issue we lead with a piece on Payment of care home fees.

In Business news we provide advice on how to avoid the next banking ‘glitch’ and we look at the implications of a recent European Court ruling on how being sick whilst on holiday can be classed as sick leave.

You can read about how Latimer Hinks have raised almost £10,000 for local charities and moving on there’s advice on how to ensure your digital affairs are protected in the event of death.

And finally on we provide advice on how to prepare a house for sale in a challenging market.

Helen Thomas, who works with Natalie at Latimer Hinks, mentions the point that “Many of the firm’s clients who secure advice on care-related matters often have no idea that a retrospective review can be carried out. The need to publicise the issue is particularly important when refunds can be very substantial.”

“Anyone who thinks they may have a claim, or would like to claim on behalf of someone else, should do so as a matter of urgency.”

For further information, and to make an appointment to have your case, or your relative’s case reviewed please contact Latimer Hinks on 01325 341 500.

**Latimer Hinks**  
S O L I C I T O R S

## Holiday illness to be classed as sick leave

**Workers throughout the European Union who fall ill while on annual leave now have a right to take corresponding paid sick leave at another time, the European Court of Justice has ruled.**

The ruling is binding on all European Union members, including Britain, and is part of the EU's Working Time Directive. While the UK has an opt-out on parts of this directive, there is no exemption for sick pay and holiday. The Government has said it will apply the court's rulings from October, despite claims from both business groups and government officials that this will be detrimental to the UK economy.

Norman Lamb, the employment relations minister, said, "Most employees accept that if they fall ill while on holiday, it is unfortunate but they do not expect extra holiday. This judgment reinforces the need for a reassessment of the scope of the Working Time Directive." The Government



itself estimates that adopting the rules will cost employers more than £100 million each year.

Employers will be understandably concerned that this new legislation could prompt staff to falsely claim 'sickies' while on holiday. Having a clear and rigorous process for reporting sickness will be more crucial than ever.

To talk to one of our team about how to prepare for this new legislation please contact us.

***"The ruling is binding on all European Union members, including Britain"***

### ***National Loan Guarantee Scheme now extended***

**The new National Loan Guarantee Scheme**, covered last issue, is set to expand to include any UK firm with a turnover of up to £250 million.

The announcement was made by Chancellor George Osborne, who also reported that in the three months since the scheme's launch, 10,000 loans worth £1.6 billion have been offered to UK businesses. To apply for a loan under the scheme, contact a participating bank: Barclays, Lloyds, RBS, NatWest, Bank of Scotland, Santander, Aldermore or Lombard

## Protect yourself from the next bank 'glitch'

**If ever anything highlighted the importance of a contingency plan, it is the catastrophic 'glitch' suffered by Royal Bank of Scotland in June.**

A poorly executed software update froze the funds of millions of customers, delaying payments and sending account holders into the red. Some estimate the cost to RBS to be as much as £100 million, while the damage to its reputation could be irreparable.

It's all a timely reminder of how much individuals and businesses depend on their bank and other services. Computer experts have warned that many other big banks could suffer similar IT meltdowns.

You can protect yourself or your business with a 'back-up' at another bank, such as an instant-access savings account. It means that if one bank's systems go down, you still have access to funds via another.

***"You can protect yourself or your business with a 'back-up' at another bank, such as an instant-access savings account"***



If you do suffer a delayed payment, it's also important to ensure your credit record is not adversely affected. Stephen Hester, CEO of RBS Group has promised, "We will ensure no customer's credit rating is affected as a result of this incident. We will work to set the record straight before any credit reports are supplied to Experian."

Non-RBS customers whose credit history was damaged by the incident can contact their own bank directly. Either way, it is good practice to protect your credit history as this increases the chances of securing any future loan.

The RBS crisis is down to far more than a technical error. And it is widely

acknowledged that a better contingency plan could have prevented the problem becoming so serious.

Businesses looking to protect their reputations would do well to learn from RBS' failings and review their own continuity plans. Do they cover an IT data management failure? What about similar problems in areas such as human resources, property, customers or insurance? A business should consider all possibilities, and take into account main supplier risks too. And that, of course, includes banking services.

# Almost £10,000 raised for local charities



Latimer Hinks has raised £9,500 for a wide range of local charities. Organisations that have benefitted from the funds raised at the 2012 Latimer Hinks Charity Ball include The Soldiers' Charity, which has been presented with a cheque for £2500 as well as Grace House Hospice and St Teresa's Hospice, which have each received £1500.

A host of other local and national charities, including The County Durham Foundation and the Teenage Cancer Trust, have also been presented with sizable donations that will assist them in the vital work they do.

Anne Elliott, Partner at the Darlington-based firm of solicitors, commented: "We are delighted to have raised vital funds for important charities including the Soldier's Charity, which provides lifetime

support to serving and retired soldiers and their families in times of financial need. St Teresa's Hospice provides hospice care, day therapy as well as family support and bereavement services to families in South Durham and North Yorkshire.

"Grace House Children's Hospice will be the North East's first standalone children's hospice and the money raised will help to fund the building and equipping of the new hospice."

She added: "The way we are distributing the funds this year is slightly different. We are donating to a total of 10 charities (normally only two or three), as we believe that the smaller local charities will benefit hugely from the donations, especially bearing in mind the economic climate. I would also like to thank

HSBC who very generously agreed to match £1 for £1 up to £1000 for monies raised."

Brian de la Haye OBE, Regional Director for ABF The Soldiers' Charity said: "The support that we have received from Latimer Hinks this year has been terrific. We have an enormous challenge both now and in the future providing for the needs of soldiers, veterans and their families, and in support for the Recovery Centre at Catterick.

"This donation is enormously valuable to us in meeting needs which have been increasing by 30% each year for the last three years."

## The complete list of charities to benefit includes:

The Soldiers Charity - £2500.

St Teresa's Hospice - £1500.

Grace House Hospice - £1500.

County Durham Community Foundation - £1000.

Teenage Cancer Trust - £500.

Darlington Town Mission - £500.

Holistic Cancer Care - £500.

Darlington Refuge - £500.

Age UK Darlington - £500.

Darlington & District Social Club for the Blind and Visually Impaired (DSCBVI) - £500.

## Get your digital affairs in order

**When it comes to writing a will, most people take into account traditional assets such as property, savings and possessions. But what about our digital chattels?**

With more of us using social media, cloud services and other virtual networks, how do we ensure our digital data is protected and dealt with after we die?

Anyone who has had to manage the digital legacy of a loved one will know how frustrating it can be. The user may have thousands of emails, files, photos and music stored online. But if they never stored their login details in a place that an executor could access them, there is no way of controlling what happens to that data.

While Facebook will allow relatives to close an account, many service providers will never give another person the right to access a user's account, even when that user has died. Policies vary by provider and they are not always clear. For example, newer social networks like Pinterest and Instagram do not yet list explicit policies for dealing with a deceased user's profile.

The only way to make sure your data is appropriately managed after your death, is to take responsibility and create a 'digital will'. This will should state exactly how you want your data to be handled, and it should include your login details and passwords for all of your online accounts and social media profiles. It is worth appointing someone you trust as your online executor, who will be responsible for closing your email accounts, social media profiles, blogs and so on.

Some companies are now offering secure 'online safes' where you can store personal data and passwords, and assign



beneficiaries so that they can access the safe easily, should the worst happen. What is important is that you choose a storage method you can trust, and that your online executor can easily access.

For advice on how to manage your digital legacy, please contact us.

## 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.

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

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

#### business & commercial

Advice on commercial property law, employment and contract law, selling a business and succession planning.

**Commercial Team:** Nick Poole, Anne Elliott

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

#### farmers, landowners & landed estates

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

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

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

Contact details for Latimer Hinks:

Tel: 01325 341500

lh@latimerhinks.co.uk

www.latimerhinks.co.uk

# Preparing for a house sale in a challenging market

One of the most important things to consider when selling your property is to secure a range of property valuations for your home at the outset.

Do not simply go for the highest valuation, particularly if that valuation is considerably higher than the next highest estimate. This could well lead to problems during the sales negotiation process, as the buyer's surveyor could provide a lower valuation, causing the process to stall.

In addition, and largely because of the tough property market at present, do not take your property off the market until exchange. There could be a problem with the mortgage arrangement and, as I've already mentioned, the valuation could come back lower than expected. Or, the buyer could simply get cold feet and back out.

As a vendor, you can ease the buying process by making sure you have all the relevant paperwork to hand. If the property is a flat, make sure you have a copy of your lease and if your property has undergone any significant alterations, you will need to show proof of the necessary approvals.

Here are a series of key questions to ask yourself when selling your home and how to deal with them:

#### Alterations:

- Have you extended the property?
- Have you converted the loft or garage to provide extra living space?
- Have you removed or altered any internal walls?

If yes, you will need to supply any relevant planning permissions or building regulations, approvals and completion certificates. Further to this, you should supply any technical drawings or guarantees to your solicitor to ensure that the buyer has all relevant information up front.

#### Improvements/Maintenance:

- Have you installed replacement windows?
- Has the boiler been replaced?
- Has an electrician installed any new circuits?

Each of the above will require Building Regulations approval or the industry equivalent (FENSA, Gas Safety or NICEIC.)

#### Access to the property:

Is parking for your car on the road or on land to the rear or side of the property?



**Martin Williamson**

Does the property have the use of an access that is not maintained by the Council?

Do you make any contribution towards payment of roads or paths serving your property?

If relevant paperwork or permissions were not obtained, solutions can be discussed with your solicitor at the outset and offered to the buyer at the beginning of the process (thus avoiding any delays before contracts can be exchanged.)

Finally, a crucial point to remember is that until exchange of contracts takes place, a buyer is not tied into anything, so can back out at any time. Between exchange and completion, it's much less likely that the sale will fall through, as the buyer will most likely lose their deposit if they pull out.

One of the most important things you can do to make sure a house sale goes smoothly is to have a good relationship with your solicitor and to make sure that your solicitor is in regular contact with the buyer's solicitor. Good communication will help to ensure that the sales process does not grind to a halt.

Disclaimer: Please note that the firm is not to be held responsible if anyone acts on the basis of the advice contained in this article.

Martin Williamson is Head of Residential Property at Latimer Hinks. For further information contact: 01325 341500.