



# myers&co solicitors news

Autumn 2016

## Litigation grows force!

Myers & Co extend a warm welcome to two highly experienced litigation lawyers, Sarah Everton and Hannah Kennedy.



FROM LEFT: HANNAH KENNEDY, STEPHEN MYERS AND SARAH EVERTON

Sarah Everton takes over as our new head of employment law. She comes to us with over 10 years' experience of advising clients throughout the UK on all aspects of employment law. Sarah provides employers with bespoke employment documentation, such as employment contracts, employee handbooks and directors' service agreements. She provides commercial advice about handling disciplinary actions, grievances and redundancies.

Sarah now delivers the Myers & Co EmployerAssist service, which provides businesses with the security of employment law advice for a fixed monthly cost. Our advice is supported by insurance cover from a major UK insurance company. Sarah also regularly advises employees on settlement agreements and represents them, often through their legal expenses insurance, in employment tribunal proceedings.

Hannah Kennedy joins us as a specialist litigation solicitor with over 10 years' of experience of dispute management and avoidance. She has worked at several globally recognised law firms.

Hannah advises on a broad range of disputes for businesses, property owners, professionals and individuals. She has considerable experience and expertise in construction litigation.

She is a highly regarded litigator with strong working knowledge of mediation, adjudication, arbitration and court proceedings.

**For confidential advice about any employment law or dispute resolution problem contact us on 01782 577000.**

### In this issue

2 ➔ Top tips to avoid problems with probate

3 ➔ Have you been accused of misconduct at work?

4 ➔ Six ways to speed up your house purchase

➔ Why are inheritance disputes on the rise?

## Top tips to avoid problems with probate

If you have been appointed as an executor in a will, you may be tempted to try to obtain probate yourself with a view to saving on legal costs.

However, except with the simplest of estates, the process can be complex for inexperienced executors to handle, and there are many potential pitfalls and problems which can arise. In the event of a dispute regarding the will it can end up costing much more than it might have done had you used a solicitor. It may also add significant delay to the administration process.

Stephen Myers explains the common areas where complications arise, and how using a solicitor can avoid some of the potential pitfalls:

### 1. Validity of the will

A solicitor can check that the will has been drafted and executed properly and confirm that it is still valid.

### 2. Dealing with fraud

If you suspect that your relative was pressurised into making or changing their will, this can be a difficult issue to deal with alone.

### 3. Following wishes

The executor's job is to ensure that the terms of the will are carried out. Your solicitor can explain each section of the will and its implications for tax and inheritance.

### 4. Gathering information

As an executor you will need to collate information on all the assets and liabilities of the person's estate, which can be very time-consuming. Your solicitor can take over many of these duties on your behalf, including writing to banks and getting a valuation of any property and its contents.

### 5. Inheritance tax

Depending on the value of the estate, you may need to submit an account to HM Revenue & Customs and arrange payment of any inheritance tax. You will also need to provide beneficiaries with detailed accounts of the estate. If this is not done accurately you could find yourself open to accusations of fraud.

### 6. Challenges from family members

This can be an emotional time for families, with old rivalries often coming to the surface. Using a solicitor can satisfy family members that everything is above board and being done properly.

### 7. Claims from dependents

Where a dependent has a financial claim because they have not benefited from the will in the way they anticipated, you will need advice on what to do as the estate could end up in court.



### 8. Disputes

Disputes can arise where family members feel excluded from the will, or perhaps a substantial portion, or all of the estate, has been left to charity. Your solicitor has experience on how to handle disputes sensitively.

### 9. Varying the will

Beneficiaries may want to refuse an inheritance, either to avoid inheritance tax or so that their children can inherit in their place. Your solicitor can advise on the options and advantages, and prepare a deed of variation.

### 10. Executors liability

An executor's job can last from a few months to a number of years depending on the complexity of the estate. It is an onerous and unpaid task, and you can find yourself personally liable for mistakes.

By instructing an experienced solicitor, you can shorten the process of obtaining probate and avoid causing unrest among the family. With often large amounts of money at stake, it is safer to leave it in the hands of an experienced solicitor who specialises in probate law and can provide you with the assurance that everything will be handled correctly. The fees of a solicitor are a legitimate expense of the estate.



Stephen Myers

For more advice about obtaining probate contact Stephen Myers on 01782 577000.



## Have you been accused of misconduct at work?

Misconduct is a potentially fair reason for dismissal, so if an employer has accused you of misconduct you should get independent legal advice to ensure your employment rights are protected. Sarah Everton, employment law solicitor at Myers & Co, looks at what you need to do if you are facing disciplinary proceedings for misconduct.

Misconduct is unacceptable or improper behaviour. Cases of minor misconduct, such as lateness, are usually dealt with informally. Where that does not work or the matter is more serious, your employer will normally take formal action.

Gross misconduct is the most serious type of conduct and includes theft, fraud, fighting, drunkenness, harassment, serious negligence and serious breach of health and safety rules. It can result in the termination of your employment without notice.

### Relevant documents

Your employer has to give you details of its disciplinary rules and procedures for disciplinary decisions and appeals. They should also follow the Acas Code of Practice on Disciplinary and Grievance Procedures.

### The procedure your employer should follow

It is important for your employer to undertake a reasonable investigation and then invite you to a disciplinary hearing. This should be conducted by a senior manager and should give you an opportunity to respond and call witnesses to give evidence on your behalf. Following the hearing, your employer will write to inform you of the outcome and advise you of your right to appeal.

### The possible outcomes

If your employer decides that you are guilty of misconduct they can give you a warning or, depending on how serious the misconduct is and whether you have any existing live warnings on your disciplinary record, they can choose to dismiss you.

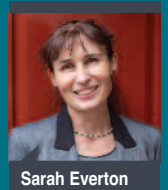


Your contract may also include other sanctions, such as suspension without pay, demotion or redeployment.

### Settlement agreement

In some cases, your employer may offer you a settlement agreement. If you accept, your employment will come to an end and you will waive your right to any legal claims in return for a financial settlement. You will need to take legal advice on the agreement in order for it to be binding, and your employer will normally pay a contribution towards the cost of you doing this.

**If you have been accused of misconduct, you are going through a disciplinary procedure, or you have been offered a settlement agreement, contact Sarah Everton on 01782 577000.**



Sarah Everton

## Why are inheritance disputes on the rise?

**Inheritance disputes were once considered the preserve of the wealthy or famous, but in recent years the number of families contesting a relative's will in the High Court has soared. According to The Times, disputes have risen by 11 per cent from 104 in 2014 to 116 in 2015.**

Hannah Kennedy, dispute resolution solicitor at Myers & Co, considers that the rise in inheritance disputes is due to a number of factors such as the use of home-made wills and the changing nature of our society.

In addition, higher rates of divorce, remarriage and cohabitation, combined with an increase in the value of estates, and a greater awareness of rights, means that relatives are more likely to pursue any inheritance they consider to be due to them.

An inheritance dispute can take any number of forms, from concerns that a will has been incorrectly made or forged, to a dependant believing that they have been unfairly left out or not received what they were entitled to.

Disputes can also arise over the choice and conduct of executors and trustees who are responsible for overseeing the probate process, paying inheritance tax and distributing gifts according to the terms of the will.

Anyone with concerns about a will, or the probate process, should act quickly and take legal advice as soon as possible as there are strict time limits to make a claim.

We can help you with:

- challenging the validity of a will;
- disputes between executors and beneficiaries;
- removal of executors;
- claims arising from the Inheritance (Provision for Family and Dependants) Act 1975; and
- disputes relating to the ownership of property.

**If you are concerned about the validity of a will, or involved in an inheritance dispute, contact Hannah Kennedy on 01782 577000.**



Hannah Kennedy

# Six ways to speed up your house purchase

In today's competitive property market finding the house of your dreams is only the first hurdle. To make sure that it is you turning the key to the front door, and not somebody else, you will need to be able to move quickly to secure the property you want.

Kerry Dundas, head of residential property at Myers & Co, outlines six ways to speed up your house purchase.

I am often asked: "how long does it take to buy a house?" says Kerry. Sadly, there is no definitive answer. For a straightforward transaction, six to eight weeks is typical, but any number of factors may complicate matters and cause delays. However, smart buyers know that doing their homework and being prepared can give them the advantage.

## 1. Get your finances sorted early

Arranging a mortgage can take several weeks, so get your lender's agreement in principle so that you know what you can afford and enable you to proceed quickly when the time comes.

## 2. Book your surveyor early

Your mortgage lender will instruct their own valuer and usually charge you a fee. However, this valuation is for their benefit not yours. Surveyors can be booked up for weeks ahead, so prudent homebuyers will arrange their own structural survey and valuation to be carried out early on.

## 3. Speed up those searches

Your solicitor will carry out a number of conveyancing searches, including a local authority search. This reveals certain statutory matters, like planning enforcement notices, which could affect the property.

Turnaround times vary depending upon the local authority, but they can take several weeks and become a major source of delay. Having a proactive conveyancer will help, as they can start the process early and make the most of time-saving technologies like online search facilities.

## 4. Instruct a good solicitor

The estate agent will want your solicitor's details as soon as your offer is accepted. Your solicitor can then contact the seller's solicitor, and get the conveyancing process started straightaway. Using a solicitor who is on your lender's approved panel may save you time and money. They should be familiar with the lender's detailed requirements, and can



act for both you and the lender. However, the most important thing is to choose a solicitor who has a good reputation and in whom you have confidence.

## 5. Identify issues early on

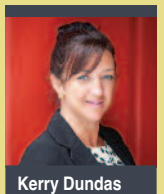
A specialist conveyancer should identify potential title problems, and suggest creative solutions. For example, an application for retrospective consent may cure an apparent breach of planning or the seller may agree to insure against the risk of enforcement action.

Nonetheless, obtaining the relevant information and agreeing a way forward takes time. So, if you know about any issues affecting the property, tell your solicitor as soon as possible.

## 6. Manage the chain

If you are in a chain, it is important to understand the dependencies. Talk to your seller and their agent regularly. Monitor what is happening with any related transactions, and make sure everyone is working to the same target completion date. Good communication can keep things on track and avoid glitches.

**If you are buying or selling a house contact Kerry Dundas on 01782 577000.**



### Legal advice for you and your family

- ➔ Dispute resolution
- ➔ Employment problems
- ➔ Residential conveyancing
- ➔ Wealth protection
- ➔ Wills and probate

### Legal advice for your business

- ➔ Corporate
- ➔ Commercial agreements
- ➔ Commercial property
- ➔ Dispute resolution
- ➔ Employment law
- ➔ Intellectual property