



For Business Plus

NEWS AND ADVICE FROM BIRKETT LONG

New year, new you



Head of our commercial department, Peter Allen, comments on this newsletter's theme of preparing for the future:

A new year often means new year resolutions, as it is a time to reflect on the previous year and to think about how to make changes to our lives. In this edition of For Business, we tell you about some new services being offered by Birkett Long.

We have a new mediator...me, and a new HR service. We also give you some ideas about areas of your business upon which

you might want to reflect or review, and there are some ideas for changes that you may want to make in the new year to help your business grow and develop, or simply to streamline its processes.

If you need help as you carry out your review, or would like any more information on the services mentioned within the newsletter, please get in touch.

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The rising cost of court fees

Following the rise in court fees in March 2015, you may have read in the news that there is the prospect of further rises to come.



Currently it costs the Government approximately £1 billion more to run the judicial system than is received in revenue from the courts. The increase in court fees will produce an estimated £50 million additional income per year.

Despite the extensive concerns made as to the likely negative effects on access to justice for litigants and the amount of fees exceeding the cost of providing the service, under the new court regime the fees would increase as follows:

- For issuing a possession claim in the county court, fees would increase from £280 to £335.
- Fees for applications by consent in civil proceedings will increase from £50 to £100.
- From £155 to £255 for a contested application made on notice in civil proceedings.
- The maximum fees for money claims would rise from £10,000 to £20,000 (remaining at 5% of the claim value).
- There would be a general uplift of approximately 10% to a wide range of fees in civil proceedings.
- The fees for divorce proceedings will increase from £410 to £550.

Whilst the Government acknowledges that courts and tribunals “must continue to play their part” in the “national effort” to reduce public spending and eliminate the deficit, it has failed to consider what effect this will have on access to justice to claimants.

The rises in fees are likely to deter people from dealing with disputes in court, as some will simply be unable to afford the front loaded costs of starting proceedings. A court fee of more than £10,000 will simply be too expensive for the majority of private clients and small to medium businesses. The Government hopes that the increases in issue fees will encourage parties to explore alternative dispute resolution, such as mediation, at an earlier stage. However, this may present

difficulties as some claimants will find it problematic to persuade the defendant to negotiate without first issuing proceedings.

These potential fee rises are likely to cause a flurry of claims being issued in anticipation of further court fee increases coming into play. The increase is also likely to encourage parties to consider alternative options to fund their litigation such as third party funding. Some parties may not deal with the litigation at all if it is not going to be proportionate to do so.

Should you have a claim that you would like to discuss with us, or would like information on how to fund your litigation ahead of the imminent court fee increase, please contact one of our dispute resolution team.



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new year

health check for your business

As we rapidly forget those New Year resolutions to attend the gym regularly, don't let 2016 be a year of missed opportunities for your business. In a changing business environment resilience is key, and making your business – and the premises from which it operates – more sustainable will have many benefits. Some of the changes that you should be considering will have a financial impact in the short term, but your FD will be surprised both by the number of grants and other assistance available to help make those changes, and by the speed with which those changes start to 'pay back'.

Extreme weather is causing business interruption or affecting supply chains, energy availability, water resources and customer confidence. Simple steps can be taken to reduce your business' energy consumption, reduce its overheads and promote business growth. By adapting and being proactive, your business should be better placed than those who either do nothing or merely act reactively – be that to shareholder pressure, legislation or customer/client pressure.



Time to get your house in order

If you are an investor, developer, buy-to-let landlord or other property owner, the new year could provide the perfect opportunity to review your property portfolio.

The time may be right to sell, refurbish or redevelop property that you own, or you may have tenants that are not paying their rent. If so, you may be interested to learn that Birkett Long's property litigation team has recently launched a fixed fee possession claim service for property owners wishing to recover possession of residential properties from their tenants.

The aim of the new service is to provide a clear and efficient service on a simple and transparent fixed-fee basis.



Sustainability is not about 'tree hugging', although if you think that climate change is happening (and most people now do) and want to do something about it, then that will be an added benefit for you. The hard business reasons for wanting to change your business to a sustainable one are:

- **Reputational.** Not everyone is an M&S, John Lewis or Hammerson, but for many businesses, being able to point to their environmental policy is something that assists and supports their business development.
- **Contract tendering.** If you want to contract with major businesses, local authorities or central government departments, they will want to see evidence of your environmental policy or plan. You may want to check that your supply chain also complies.
- **Regulatory compliance.** We all know that regulations are only getting tighter and targets tougher. Even if your business is not caught by many regulations now, it will not be long before it is.
- **Saving costs.** This is the one that your FD will love you for. Look at sensible, practical steps that you can take to reduce energy consumption and/or stop leaks and wastage. We can all do something to improve performance and enhance 'the bottom line'. Energy costs are only going one way! You may want to go further and take positive steps to change your energy supply so that at least part of your needs are catered for by renewable

energy sources. Many grants and support are available to assist here.

One final point to check if you are in an area of flood risk, concerns your buildings insurance. Flood Re - the new Government and Association of British Insurers scheme for properties at risk of flooding - does not cover commercial premises. It is likely that if you are in a flood risk area you will see premiums rise sharply and some properties may become uninsurable. If that happens, could that affect your ability to borrow money secured on the property? What can you do to protect your premises and business?

For further help and advice contact David Rayner.



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To find out more please

- Visit our website: www.birkettlong.co.uk/site/disputes_court_proceedings/fixed-fee-possession-claims/fixed-fee-possession-claims_index.html#
- Email us at possession@birkettlong.co.uk
- Or ring Keith Songhurst on 01245 453821.

mediation

the process, the benefits

Birkett Long has a new mediator. Peter Allen has become an ADR Group accredited mediator in civil and commercial mediation. ADR Group is recognised as one of the leading mediation trainers and providers.



Mediation is a process for helping parties to resolve disputes. It is a facilitated negotiation where the mediator is an independent third party who assists those in dispute to negotiate a settlement through a confidential process. A mediator does not make a decision on the case and does not give an opinion on the merits of the case. The role is solely to help the parties negotiate.

The process usually lasts less than one day and usually involves some “shuttle diplomacy” from the mediator. It is a voluntary and confidential process. Most parties who refer a dispute to mediation want to settle at the mediation. However, whether settlement is reached - and the terms of that settlement - are wholly in the hands of the parties involved. It is also possible to negotiate terms of settlement which include elements that a court could not award.

A mediation can involve more than two parties. Peter was recently involved in a mediation which had 8 parties and 9 firms of solicitors! Many parties are worried that they are “too far apart” but that is rarely the case. Peter was involved in a case where the parties were almost £2 million apart and yet the case still reached a settlement, which shows that mediation is appropriate for all types of dispute involving all monetary values.

Mediation has been around for many years. Adrian Livesley, our managing partner, has been an accredited mediator since 1990 and has been appointed as mediator over 100 times. Peter Allen first represented a party in a mediation in 1998 and has since represented parties in over 40 mediations, leaving him very experienced in the process.

Mediation has been pushed by both judges and the courts. Parties who unreasonably refuse to refer their disputes to mediation may be penalised in costs, even if they are ultimately successful in their claims. This means

more and more mediations are taking place. Although the process is not without cost, the sum involved is usually a fraction of the cost of going to trial.

Furthermore, the vast majority of cases settle. With the dispute resolved, people can move forward with their lives and their businesses. There is no further risk of loss in the case, no further legal costs to be incurred and no further time to spend on it. The parties will have come up with a solution with which they can live.

Peter is now accepting appointments as mediator. He will act as the independent third party to assist parties to negotiate a settlement of their dispute that is satisfactory to both sides. Please contact Peter if you would like to appoint him as your mediator or simply wish to discuss the mediation process further.



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your staff

your key asset

Your first thoughts in 2016 will hopefully not have been about your business, but a new year is an excellent time to think about issues that affect your staff. Here are just a few points that you may want to consider.



- Your staff are your key asset, so they are worth thinking about!
- A key priority for you in 2016 must be to make sure that you have written contracts of employment in place for all your members of staff, or if they are already there, that they are up to date and relevant for your business needs moving forward. Written particulars of employment, containing the key employment terms, are a legal requirement under s 1 Employment Rights Act 1996, for which non compliance risks an award of 2-4 weeks pay in an employment tribunal. However, and more importantly, more fulsome and detailed written contracts of employment are the best way for you to minimise risk and dispute in the workplace and protect your business. Changes to existing terms will generally need to be agreed, but you will have a lot more flexibility to do that within the first two years of someone's employment; thereafter you might think about seeking

agreed changes with the annual pay rise.

- Reviewing your employment contract is closely followed by making sure that you have up to date written work policies in place. Those you need to consider will depend upon the size and nature of your business, but key policies to start with are generally disciplinary and grievance, equal opportunities and internet use.
- Stay up to date! Read our monthly e-bulletin update and attend our free bi-monthly breakfast clubs. You might want to ask about some training for any of your managers with responsibility for staff, or enquire about how Birkett Long Human Resources could help you.
- Talk to people. Consultation is a key requirement of any fair process from a legal point of view but, more importantly, it is often a good way of nipping a problem in the bud or dealing with one once it has been reported to you.

Whether you employ just one person or have a staff of thousands, employment law applies to you! We see many employers who bury their heads in the sand, but failing to take early advice when you are faced with a potential problem could allow the situation to escalate. Here at Birkett Long we aim to give pragmatic advice that is commercially astute and protective, as well as being cost effective for your business, offering fixed fees or 'pay as you go' arrangements.



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Birkett Long in the community

Our role in the community remains important to us. We continue to support charities and organisations local to our three offices. We actively support various charitable causes, including a staff-nominated charity of the year, and since 2004 the firm has raised in excess of £280,000.

CHARITY OF THE YEAR

This year we are raising money for CRY (Cardiac Risk in the Young). CRY is close to the hearts of staff since one of our colleagues, Charlotte, an admin assistant in our Colchester office, passed away last year through sudden arrhythmia death syndrome, also known as sudden adult death syndrome. CRY aims to prevent such deaths through awareness, screening and research, as well as providing support to the bereaved. In the UK twelve apparently fit and healthy people aged 35 and under die suddenly every week from a previously undiagnosed heart condition. In 80 per cent of cases, there are no signs or symptoms, which is why CRY believes cardiac screening is so vitally important, and tests over 20,000 young people each year.

Last year, our charity of the year - as voted for by staff at the firm - was the Rob George Foundation, for which we raised over £11,000. This donation will help young people with life threatening or terminal illnesses and offer them financial or practical support when needed. The picture right shows the cheque being handed over to trustees, Philip George and David Cant.



SPONSORSHIP - £50 CHALLENGES

We are now in our fourth year of supporting the St Helena Hospice £50 Challenge, and in our first and second year, respectively, of supporting the £50 Challenges for St Luke's and Farleigh Hospice. We are delighted that the total amount raised for the three hospices is now in excess of £180,000.

CHELMSFORD CATHEDRAL

For the last four years we have supported the Chelmsford Cathedral Choral Foundation. Last year saw The Sixteen return for a second highly successful concert at the cathedral. Known as "the voices of Classic FM", The Sixteen have been performing and recording worldwide for over 30 years.

ESSEX WILDLIFE TRUST

In 2015 we became corporate members of the Essex Wildlife Trust, the county's leading conservation charity. With more than 34,000 members, it manages and protects over 8,200 acres of land on 87 nature reserves and 2 nature parks, and runs 10 visitor centres. The Trust aims to protect wildlife for the future and for the people of Essex.

More of our work in the community can be found on Twitter @birkettlong, on our website at www.birkettlong.co.uk, on Facebook or on our blog, www.birkettlong.co.uk/blog.

Home news

GROWTH AT BIRKETT LONG

Throughout 2015 we have announced promotions and appointed new members of staff to various teams, notably Caroline Dowding (pictured right), Head of Wills, Trusts and Probate in the Colchester office, who has been promoted to partner.



Also in 2015, Asher Prior Bates joined us, in a move that means their clients will benefit from the wide range of services that we can offer. This is our sixth acquisition in six years: our first was in 2009 when Jackson & Partners joined us, and since that time we have joined forces with Passmores, Weight Wolney & Trustler, Brian Ruff Angus & Jewers, and E. Edwards Son & Noice.

As well as acquiring new businesses we are also creating new teams within the firm. Our recently launched Court of Protection and Inheritance Disputes team is led by partner, Amanda Smallcombe, who has been at Birkett Long for 14 years. Amanda is one of a very small number of practitioners in East Anglia who has achieved the ACTAPS qualification - The Association of Contentious Trust and Probate Solicitors. We wish her and the team all the best.

ESSEX DIGITAL AWARDS

We congratulate our marketing team, who won gold in the 'use of video for business' category at the Essex Digital Awards 2015.

Bribery and corruption!

If your business works in the construction, manufacturing or engineering sectors, or you deal with large organisations, local authorities, schools, hospitals, social housing associations or businesses abroad, you will probably have noticed that the contracts you are being asked to sign with them will now start to require you to comply with the Bribery Act 2010.

What does this actually mean? Of course your business is not involved in bribery or corruption, so surely you can sign to say that this is true! Be aware though that this is not enough to comply with either the Bribery Act or the contract you are signing up to.

Sometimes the contracts will specifically require you to have an anti-corruption and bribery policy in place. This is the fairly easy part, and we have provided many such policies to our clients, whether as part of a staff handbook or just as a standalone document. Even if the contract does not state that you require a policy, the Bribery Act requires you to have procedures in place, and the only way of evidencing this is to have a written policy.

More than this, the Act states that your business and your management need to make your position on bribery, and what this means, clear and unambiguous to all staff and business partners. Bribery prevention policies and procedures need to be embedded in the way that you work and you must ensure that they are understood throughout your organisation. It is not unusual for staff to be given a work policy and for them to never read it or perhaps not to understand what it means for them. The only way to really show that the policy has been communicated clearly to staff and that they do understand it, is to go through it with your staff in a training session.

Indeed, more and more contracts and tender processes are also now specifically stating that you must have provided your staff with training on the subject, so unless you can say that you have done this you will start to lose out on winning that new work.

Not only can Birkett Long provide you with an anti-corruption and bribery policy for a small fixed fee, but we also run interactive training sessions for your staff. These sessions can be tailored to the number of staff you have and how long you would like the training to last, and these too are provided via a fixed fee. We will ensure that training is relevant and of practical use to your staff at your individual business - you will be pleased to hear that we promise no legal jargon either!



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Events

Investment seminar

8 and 9 February 2016

This free investment seminar looks at opportunities for growth in the global financial markets and will be of relevance to all investors.

Employment breakfasts

Dates throughout 2016

An opportunity to gain regular vital updates in the fast changing employment law arena.

For details on any of these events or to register your free place, visit www.birkettlong.co.uk/events or call 01206 217334.

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Customise your package to include any or all of the following:

- 24/7 helpline for employment queries and HR issues
- a review of employment contracts, staff handbooks and company policies
- new document drafting (e.g. disciplinary invitations, staff agreements and settlement agreements)
- a practical guide to employment law - example letters, master contracts and handbooks
- regular email newsletters

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Conveyancing
Quality



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