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### Divorcing couples must not use 'secret' documents

Divorcing couples will no longer be able to use secretly obtained confidential documents as part of their evidence.

The landmark ruling was handed down by the Court of Appeal in a case involving a wealthy couple going through complicated divorce proceedings.

The issue arose when the woman's brother downloaded information which gave details about her husband's financial affairs.

The husband took legal action saying the brother had no right to download his private documents. He won his case in the High Court which granted an order that the documents should be handed back.

That decision has now been upheld by the Court of Appeal. It has never been permissible to obtain documents by force such as by breaking into a cabinet or an estranged partner's home.

However, until now, there was a practice known as the Hildebrand rules which meant that if a husband or wife came across a confidential document proving that their partner was withholding money, they would be able to use it as evidence in court.

That practice must now stop following the Appeal Court ruling. In giving his judgment, Lord Neuberger said: "It follows that nothing in the so-called Hildebrand rules can be relied upon in justification of, or as providing a defence

to, conduct which would otherwise be criminal or actionable."

The judgment means that if a husband or wife in a divorce case take documents without permission, they could face heavy costs or even criminal proceedings.

They can still, of course, apply for a court order to obtain documents or freeze assets.

Please contact Patrick Troy or Amanda Worger for more information about this or any aspect of matrimonial law.



### Task Force to help children, parents and grandparents

The Government's new Childhood and Families Task Force is to look at better ways of supporting children, parents and grandparents in the event of family breakdowns.

Deputy Prime Minister Nick Clegg said: "Separation and divorce can be deeply traumatic for any family. We need to look at how we can protect children in the event of family breakdown; preventing breakdown where we can, making it as painless as possible where we can't."

The Task Force will also look at ways to provide better contact rights for grandparents. As the law stands at the moment, grandparents have no automatic right to have contact with their grandchildren.



This means they can face a difficult legal battle if a family breakdown means they are denied access by a son or daughter-in-law or even in some cases by their own children.

The Task Force will try to address this. There is already evidence that the courts are increasingly willing to recognise the valuable role that grandparents can play in their grandchildren's lives.

In a major case, the Supreme Court recently ruled that a child would be better off living with his grandmother rather than be returned to his biological father.

In another separate case, a grandmother won the right to be paid the full carer's rate for looking after her granddaughter.

Please contact Patrick Troy or Amanda Worger for more information about this or any other issues relating to family law.

### Woman leaves £250,000 to taxi driver in her will

An 86-year-old woman has left all of her £250,000 estate to a taxi driver who regularly took her shopping.

Mary Watson was one of Don Pratt's regular customers for more than 20 years and she often told him that she would remember him in her will.

He says he didn't really believe her but then he got a phone call from her solicitor. "I couldn't believe it when we found out she had left us everything.

I'm not sure how her family feel about it, but the solicitor was clear that she wanted me to have what she left." The money has enabled Mr Pratt to retire.

Few people will want to leave everything to their taxi driver but most of us would like to have control over who inherits our estate. If you want to ensure your money goes to the people who matter to you then it is vital that you make a will.

If you die intestate, that is without having

made a will, then your estate will be divided in a way decided by the law. However, if you do make a will then you can specify exactly who gets what from your estate. That way you can ensure that the people who matter to you are properly provided for – whether it's your spouse, your children, your favourite charity ... or even your taxi driver.

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

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F: 0123 456 7891

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## Housing market 'needs to be reformed'

The way we buy and sell our homes should be reformed for the benefit of consumers, according to some of the leading professions in the industry.

Solicitors, estate agents, surveyors and consumer bodies recently held a meeting chaired by the Building Societies Association (BSA) to discuss new approaches.

The Government's decision to abolish HIPs was broadly welcomed but most experts said more still needs to be done. The Law Society says that it has always supported the idea of buyers receiving information up front about a property they wish to buy but HIPs had not properly addressed the issue.

It said: "Concern about the additional cost to sellers and lack of benefit to consumers has prompted the Law Society to propose a complete and comprehensive set of

documents, prepared by a solicitor, who has the benefit of specialist legal training and professional responsibility."



The former president Robert Heslett added: "The professional integrity and legal skills which solicitors have traditionally brought to the housing market are probably more important now than they have ever been.

"The marked increase in property fraud, including registration fraud and mortgage fraud, means that the role of the solicitors as the gatekeeper in the process assumes a greater importance."

Please contact Ian Armstrong or Helen Akroyd for more information about buying or selling a home.

## Government to scrap forced retirement at 65

The Government has announced that it is going to scrap the Default Retirement Age (DRA).

It means that from October next year, your employer will no longer be able to force you to retire just because you've reached the age of 65.

You will be able to continue working unless your employer can show that there are valid reasons for obliging you to retire.

These reasons would have to relate to the nature of the work. For example, an employer might be able to show that an older employee could not carry out the tasks required of certain jobs such as police or fire officer. Ministers are now beginning a consultation process on the issue but have already outlined the timetable for



phasing out the DRA. It means that from 6<sup>th</sup> April 2011, employers will no longer be able to issue any notifications for compulsory retirement using the DRA procedure.

For the period between 6<sup>th</sup> April and 1<sup>st</sup> October 2011, only people who were notified before 6<sup>th</sup> April 2011 and whose retirement date is before 1<sup>st</sup> October 2011 can be retired compulsorily using the DRA.

After 1<sup>st</sup> October next year, the DRA can no longer be used to oblige employees to retire. If employers wish to retire an employee after that date they will have to show that their reasons are objectively justified.

Please contact Justin Birch or Martin Crossley if you would like more information about the issues raised in this article.

## Car crash victim receives £500,000 compensation

A woman who suffered severe burns when her car caught fire in a road accident has received £500,000 in compensation.

The woman, who was 44 at the time of the accident, was driving on the motorway when her car was forced on to the hard shoulder by another vehicle which was travelling too fast. Her car overturned and caught fire.

It later transpired that the other

driver had fallen asleep at the wheel. He was convicted of driving without due care and attention.

The woman suffered severe burns to 51% of her body including her face. She was in hospital for three months and underwent numerous operations and skin grafts.

She developed a phobia about driving and said she would never drive again.

A year after the accident, she tried to return to her job as a schools finance officer but had to use buses. The journey was too long for her and she had to take a lower paid job.

The other driver admitted liability and agreed to pay £500,000 compensation in an out-of-court settlement.

Please contact Martin Crossley for more information about making a personal injury claim.

Please contact us if you would like more information about the issues raised in this newsletter or if you need advice on any other legal matters.

Our newsletters are designed to highlight legal developments. They should not be taken as a comprehensive analysis of the law. Clients should always obtain professional advice before making decisions on legal matters.

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