

# PRIVATE CLIENT UPDATE

Your Law Firm's Legal Update for Private Clients

SUMMER 2022

## Divorce cases rise

### as No-Fault approach takes effect

**There has been a surge in the number of divorce applications since the new No-Fault law came into effect in April.**

The Divorce, Dissolution and Separation Act 2020 aims to reduce the potential for conflict amongst divorcing couples by removing the ability to make allegations about the conduct of a spouse and allowing couples to end their marriage jointly.

Under previous law, one spouse had to allege adultery, unreasonable behaviour or desertion in order to start divorce proceedings immediately. Now they only have to state that the marriage has broken down irretrievably.

The Act also allows couples to jointly apply for a divorce, where the decision to separate is mutual.

There has to be a minimum period of 20 weeks between the start of proceedings and application for conditional order. This provides couples with a meaningful period of reflection

and the chance to reconsider. Where divorce is inevitable, it enables couples to cooperate and plan for the future.

It will no longer be possible to contest a divorce, except on limited grounds including jurisdiction.

Figures released by the Courts and Tribunals Service showed there were just over 3,000 applications for divorce in the week after the new law took effect. That compares with an average of about 2,000 a week over the previous year.

Analysts suggest the increase is probably down to people holding off making applications in previous weeks so they could take advantage of the new system.

The new law is a welcome development in removing much of the blame game from divorce, but couples still face having to reach a financial settlement on how marital assets should be divided and, if they have children, what kind of care and contact arrangements should be put in place.

Both these crucial subjects can be complicated and are best explored with the help of a specialist family law solicitor.

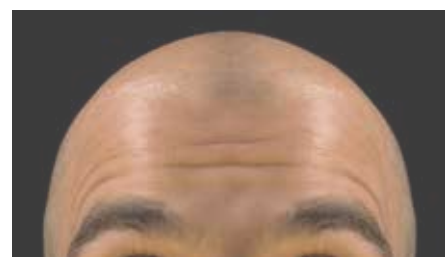
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# 355,000 homeowners benefit from Help to Buy

**More than 355,000 homeowners have benefited from the Help to Buy scheme since it was introduced in 2013, according to the latest government figures.**

First-time buyers account for 83% of total purchases. The total value of Help to Buy: Equity Loan stands at £22 billion and the value of the properties sold under the scheme total £99 billion.

The new Help to Buy: Equity Loan for first time buyers started on 1 April 2021 and will continue to help thousands



more people to own their home until March 2023.

Purchasers can borrow up to 20% of the cost of a new build (40% in London), funding the balance via a mortgage and repaying the loan when they sell.

Help to Buy is just one of the ways the government is making homeownership more achievable and affordable. Shared Ownership,

First Homes and the Mortgage Guarantee Scheme are also supporting many more people into homes of their

own. The latest mortgage guarantee scheme statistics show 12,388 mortgages have been completed since the scheme's launch in April 2021 to 31 December 2021, with the total value of mortgage loans at £2.2 billion.

Most mortgage completions under the scheme were outside London and the South East (86%) with the highest proportion of property completions in Scotland (24%) and North West (12%).

Help to Buy and the other schemes have boosted the annual number of first-time buyers to a 20 year high.

Please contact us for more information about the issues raised in these articles

## Writing on envelope not enough to alter woman's will

**A court has ruled that informal writing on the back of an envelope was not enough to challenge the terms of a woman's will.**

The woman had made the will in 2012 with the help of her solicitor.

After her death in 2019 at the age of 93, some writing was found on an envelope containing the will.

Under the heading JANUARY 2015, the writing appeared to alter two of the bequests contained in the will by disinheriting a certain nephew and passing the benefit to another nephew, and by passing the benefit originally due to her predeceasing brother to a third nephew.

Two executrices of the will applied to the court for certification that the informal writing had been executed by the deceased with testamentary intent and was consequently to be considered as an adjunct or codicil.

The court refused the application. It held that the 2012 will was a probative deed and so enjoyed a legal status that deserved respect and, while its terms were not insurmountable, it could not easily be brushed aside or altered.

The intention of the author of the informal writing was not clear from the words used.

There was no operative clause which clearly and succinctly informed the reader what the writer's intention was and what was to be done.

Put another way, testamentary language had not been used.

The closest the informal writing came to testamentary language was the use of the word "alterations" but the informal writing could have been in contemplation of making alterations as much as their actual implementation.

The evidence from what was written, where it was written and where it was found failed to persuade the court that the deceased had intended to alter the clear and probative testamentary writing that was her 2012 will.

Clients engaged solicitors to draw up their wills to ensure that their testamentary intentions were carried into effect, and it would be unsatisfactory if that could easily be disturbed.



# LPAs can help protect you as dementia figures rise

**The government is to launch a 10-Year Plan to tackle dementia following estimates that one million people will be living with the disease in the UK by 2025 and 1.6 million by 2040.**

Health Secretary Sajid Javid said the plan will focus on new medicines and ways to offer greater support for sufferers with their specific health and care needs.

However, the problems created by dementia can be widespread and

involve several issues other than just direct medical treatment.

Families may also have to take major decisions for sufferers, relating to finance and welfare.

This can be difficult and may require having to go to court to get permission to act on the sufferer's behalf. Fortunately, it's possible for a person to make such arrangements in advance, before they become ill.

Lasting Powers of Attorney enable you to take control of your future while you are still healthy by nominating someone you trust such as a family member to act on your behalf if you ever become

incapacitated and unable to make decisions for yourself.

The property and finance LPA allows you to appoint someone to look after your financial affairs and the personal welfare LPA lets you grant an attorney authority over such matters as health care and the kind of treatment you receive.

If you don't have such arrangements in place, your family may have to go through complicated and time-consuming legal processes just to get the authority to help run your affairs for you. That can create extra stress at a time when they will already be worried about you and your failing health.

## Calling a man bald 'was harassment related to sex'

**An electrician has won his claim of sex harassment after his boss called him 'bald' during a row at work.**

Tony Finn worked for the Big Bung Company in Yorkshire for more than 20 years.

He was dismissed following a row on the factory floor with his line manager, Jamie King, in July 2019.



Finn took his case to the Employment Tribunal claiming he had been the victim of harassment related to sex.

The court heard that during the row, King had called Finn 'a bald c\*\*\*'.

Finn said he was not offended by the bad language, which was commonplace on the factory floor, but felt that by referencing his baldness King had "crossed the line".

The three-person panel in the tribunal ruled that insulting a man by calling him bald is harassment related to sex

because it was a specific comment for males, as remarking on the size of a woman's breasts would be specifically aimed at females.

Judge Brain commented: "As all three members of the Tribunal will vouchsafe, baldness is much more prevalent in men than women. We find it to be inherently related to sex.

"By referring to Mr Finn as a 'bald c\*\*\*' Mr King's conduct was unwanted, it was a violation of the claimant's dignity, it created an intimidating environment for him, it was done for that purpose, and it related to Mr Finn's sex."

Finn's claims of unfair dismissal, wrongful dismissal and sex harassment were upheld, and a compensation figure will be determined at a later date.



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# Ground rent ban to cut costs for leaseholders

**A government ban on charging ground rent on new leases, effective in England and Wales from 30 June 2022, is set to cut costs for future homeowners by hundreds of pounds a year.**

Leasehold is a form of home ownership that gives a leaseholder the exclusive right to live in a property for a fixed number of years.

The lease is an agreement between the leaseholder and their landlord/freeholder, listing the number of years and any other obligations and responsibilities placed upon both parties.

Ground rent is a charge that leaseholders pay to their freeholder – usually paid annually for long leases.

The charges provide no clear service in return and can be set to escalate regularly, with a significant financial burden for leaseholders.

The Leasehold Reform (Ground Rent) Act means that if any ground rent is demanded as part of a new residential long lease, it cannot be charged at more than the cost of one peppercorn per year. This is known as 'peppercorn ground rent' and effectively sets the rate to zero.

In preparation, many landlords have already reduced ground rent to zero for homebuyers starting a new lease with them.

The ban on landlords charging ground rent on new residential leases also applies to retirement homes. This will come into force no earlier than 1 April 2023.

There will only be selected exceptions from the provisions this Act. These are tightly defined and include applicable community-led housing, certain financial products and business leases.

Statutory lease extensions for both houses and flats remain unchanged and are therefore exempt from the the Act.

For existing leaseholders (of both houses and flats) who choose to extend their leases through the non-statutory ('voluntary') route, the ground rent will be restricted to zero ('a peppercorn') on that newly extended term.

In addition, thousands of existing leaseholders have already seen a reduction in their inflated ground rent costs. In a government crackdown, the Competition Market Authority (CMA) secured commitments with major homebuilders to stop doubling ground charges every year for leaseholders.

Those who own properties with Aviva, Persimmon, Countryside Properties, Taylor Wimpey and others will see their ground rent returned to the rate it was when they first bought their home.

Other measures to make homeownership cheaper include a new right for leaseholders to extend their leases to 990 years at zero ground rent and an online calculator to help leaseholders find out how much it would cost to buy their freehold or extend their lease.