

CHAT WITH CHEBSEYS

the newsletter of Chebsey & Co

November 2011

Doesn't time fly when you are having fun? I recently passed 25 years working in Beaconsfield and 10 years ago since I started Chebsey & Co.

Since our last Newsletter the economic and social gloom remains, however in difficult times businesses and individuals need to concentrate their time and expenditure on essentials; financial planning, good health and all legal matters put in order. Our team of Specialist Solicitors can help with your legal matters, that will benefit your health and leave you capable of tackling your future finances, we only charge for helping with one of these!

So if your Will needs reviewing/updating....your Business needs advice on employment issues.... you need help retaining your driving licence.....you have found a buyer for your home....family tensions are at breaking point..... or have had enough of the UK and want Spanish sunshine whilst properties are cheap just check our website www.chebsey.com for contact details of the relevant specialists.

These are also challenging times for the Legal world with lots of changes to the regulation of Solicitors happening. You may have read about "Tesco Law" or have seen firms of Solicitors signing up to rebrand themselves with national franchises. We are always looking at ways of looking after clients and providing services that they would like to receive. With so many changes happening at the moment we would be interested to hear your thoughts about the changes that you have seen in the legal world. For example, would you go into WH Smith to talk to a representative of a law firm? Would you instruct the Co-op to act for you on your divorce? Would you consider instructing unregulated Will Writers who are not Solicitors to draft a Will for you? Is Price a key requirement or is Service and Quality more important? Send your thoughts to newsletter@chebsey.com Your thoughts are important to us.

Enjoy the rest of Chat with Chebseys

M. Keith Chebsey

Director and Chairman
November 2011



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Happy Anniversary Chebsey & Co

We have recently had a couple of important anniversaries pass since our last newsletter and whilst we don't like to make too much of a fuss about these things we thought they might be interesting to you.

First of all there was the 25th anniversary of Keith Chebsey providing legal services as a Solicitor in Beaconsfield last month.

Secondly we have the 10th anniversary of Chebsey & Co. Keith Chebsey started the firm on October 1st 2001 after 15 years as a Solicitor and Partner at Baily Gibson. Starting with just one office in Beaconsfield old town we have since added on offices in Burnham, Croxley Green, Windsor and a bit further afield in Bath. The range of services that are offered at Chebsey & Co has also grown with the usual high street offerings of Family, Conveyancing, Wills & Probate, Civil and Criminal Litigation: but also some niche areas such as employment, entertainment licensing and Spanish Law.

Here is to the next 10 years....

2011 OPP Awards For Excellence

We are delighted to have won Silver in the 2011 Overseas Property Professional Awards for Excellence. This is the second year in a row that we have been recognised by the OPP Awards for our achievements in the Overseas Property market, which is a great achievement. Commenting on our entry the judges said;

“An excellent entry from a proven firm with superb customer feedback. 99% of their clients would recommend them, and customer satisfaction of 98% speaks for itself. Rather than standing still, or indeed contracting in the current climate, Chebsey & Co have continued striving to introduce innovative products”



Image courtesy of graur razuan ionut
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Employment

Employment law issues in social media

As the use of social media such as Twitter, Facebook, and LinkedIn continues to increase, businesses are becoming adept at using social media sites to create business opportunities. But if a business does not put into place policies and procedures to ensure that its image and reputation is protected online, all of the hard work can be quickly undone.

The recent case of *Crisp v Apple Retail* is a useful case to demonstrate the importance of a social media policy. In this case, Crisp, who worked in an Apple store, posted derogatory comments on his Facebook profile concerning Apple and its products. The comments were made in his own time, and were posted to his private Facebook page. One of Crisp's colleagues, who was a Facebook "friend" saw the posting, printed it out and handed it to a manager. Crisp was subsequently disciplined and dismissed for gross misconduct. Crisp brought a claim against Apple Retail at the Employment Tribunal for Unfair Dismissal. That claim was subsequently rejected, with the Employment Tribunal attaching a significant amount



Image courtesy of 7thens
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of weight to the clear policy on social media which was implemented by Apple Retail, and the fact that the policy had been made absolutely clear to Crisp during his induction.

It is of note that Crisp tried to argue that he was entitled to a right to privacy, as implemented by the Human Rights Act 1998; this argument failed. He also tried to argue that he was entitled to freedom of speech; this argument also failed. Although each case will turn on its own facts, this case demonstrates that with a well drafted social media policy an employer can fairly dismiss an employee who uses a social media site to make disparaging or derogatory comments about his/her employer or its products.

A social media policy is also a useful tool to take disciplinary measures (including dismissing) employees who disclose confidential information, infringe intellectual property rights or who makes discriminatory or defamatory comments about a fellow employee or third party.

We encourage all businesses to review their staff handbooks to ensure that there is a clear social media policy in place. We are currently offering to review your social media policy **free of charge**. If you do not have the right policy in place, we can then draft one for you either as a stand alone policy or as part of a staff handbook. If you do have the right policy, you can rest assured that you have done your best to protect your business.

For further information on these or other issues contact Jack Khurana (jsk@chebsey.com), on 01753 833737
Laura Poole (lcp@chebsey.com), Mandeep Chima (mcc@chebsey.com) or Sue Bean (smb@chebsey.com) 01494 670440 or
Lucy Piscina (lup@chebsey.com) on 01225 401200



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If you are buying a property we would always recommend that you obtain a survey. If you obtain a mortgage the valuation carried out for the mortgage company will only look at whether the property is worth the amount you have negotiated. Any defects in the property which do not affect the value will not normally be shown on the report. A survey will rate the condition of all permanent structures and will highlight any important problems that could affect the property value. Depending on the survey this may also give advice as to future maintenance. The survey should reduce the chance of discovering any nasty surprises with the condition of the property once a purchaser has bought the property. If there are any defects the survey will help the buyer negotiate the price or require certain works to be carried out before the property is purchased. The survey may also reveal that certain works have been carried out or highlight rights that are necessary for the property which we can investigate before the property is purchased. We work with a number of local surveyors and if you would like us to recommend a surveyor please let us know.

For further information on these or other issues relating to Property contact
Alistair Bertrand (aab@chebsey.com) on 01628 600850 or Helen Woodend (hew@chebsey.com) on 01494 670440
David Wachtel (dmw@chebsey.com) on 01923 775651 or
Jo Boyle (jbb@chebsey.com) or David Prewett (dmp@chebsey.com) on 01225 401200

Crime



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Amendments to police stop and search powers and powers to take fingerprints

Since March 2011 the police have been able to take a suspect's fingerprints on the street following arrest by officers where identification is an issue. Fingerprints can now be taken using mobile fingerprint technology. Of course this ability depends on the police actually having the mobile units to take fingerprints on the street and to date we have not seen this within the Thames Valley area.

At this stage this power is only available for use by police officers where there is a reasonable doubt about identity and when identity cannot reasonably be ascertained. Further, unlike when a suspect has fingerprints taken on arrest at the police station, street samples cannot be retained after they have been checked.

Amendments have also been made to stop and search powers. This has the effect of reducing the amount of information that must be recorded by police when a suspect is stopped and searched. Further, the requirement to record all stops has now been removed. There is some concern that no longer recording this information leaves the door open to the potential abuse of these powers by police. Alternatively it could lead to those subjected to this power having the perception that there has been an abuse.

For further information on these or other issues relating to Crime and Road Traffic Defence contact
Caroline Dunne (cad@chebsey.com), Simon Fullerton (sif@chebsey.com), Graham Tolfts (gst@chebsey.com),
Amy French (amf@chebsey.com) or John Chatterton-Ross (jcr@chebsey.com) on 01628 600850.

Wills, Trusts, Probate, Taxation

When is a will not a valid will?



Image courtesy of Simon Howden
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In the news recently, an orphan, who was unofficially adopted by a couple, lost all that his unofficial parents left to him in their Wills because of a legal technicality. Mr and Mrs Rawlings treated Terry Marley as their own child but did not legally adopt him. The Rawlings had two biological sons but their wish was to leave their estates to Mr Marley. They made Wills incorporating these wishes, but unfortunately when they came to sign the Wills Mr and Mrs Rawlings signed each other's Wills.

The fact that they did not sign their own Wills meant that the Wills were invalid and they both died intestate. The decision in this case highlights yet again that it is essential that a signing of a Will must be carried out correctly for that Will to be valid.

At Chebsey & Co, as part of the preparation of your Will, our experts will supervise the signing of the Will at one of our offices and will be able to provide independent witnesses for you. Where you are unable to attend at our offices, it is often possible for the signing to be supervised by us at your home.

It is so important that having taken the time and expense of making a Will that you ensure the Will is written and executed correctly to ensure that your wishes are carried out.

If you would like advice on wills then please contact Julie Tompkins (jat@chebsey.com),
Brian Wade (baw@chebsey.com) on 01494 670440, Johanna Knott (ilk@chebsey.com) on 01923 775651
Malcolm Tanner (mjt@chebsey.com) or Jenna Dunstall (ild@chebsey.com) on 01628 660077 or



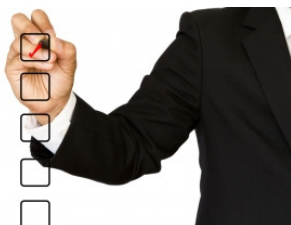
HM Revenue & Customs recently announced that it was to clamp down on people who have properties abroad and do not declare that income for tax purposes in the UK. HMRC have set up a team of 200 dedicated investigators and specialists to look into such matters.

If you do have a property abroad and rent it out you should be declaring that income in the country where that property is but also declare it on your UK tax returns if you are tax resident here. Many people either forget to do this, are not aware of their obligations or have what we call "selective amnesia" when it comes to overseas property. People who have rented properties out in the past and not declared their income may have got away with it in the past but are unlikely to do so in the future.

If you have not been declaring your overseas income in the UK we suggest that you speak to your accountant as soon as possible to get advice on what to do about this. If you haven't been declaring the income in Spain contact us for further advice.

Of course the Spanish tax authorities have had a similar department set up for many years and owners of properties in Spain are often surprised that the authorities catch them out. The authorities in Spain have long been accustomed to trawling through adverts for properties to rent even though those properties are not advertised for rent in Spain. They then pose as a potential renter and send you an enquiry asking you how much it would be to rent your property and what availability is like. In all innocence you then reply, which tells them not only how many weeks you have rented the property out for, but also what you charge, meaning that the authorities can work out what you would have received for rent.

With both the UK and Spanish Tax authorities looking for extra revenue which does frighten off voters, expect more people to be caught. We have already seen an increase in the activity of the Spanish authorities over the last 6 months as some clients have received letters from the tax authorities asking them to pay unpaid income tax.



Spanish elections.

The Spanish national elections are taking place on 20th November. The current Prime Minister, Jose Luis Rodriguez Zapatero will not be standing for re-election for a third term.

The elections come at an interesting and crucial time in Spain and it is widely expected that there will be a change of government as voters are worried about the state of the economy.

As the financial year in Spain is the same as the calendar year we will also have the budget to look forward to soon, which will be entirely dependent on who wins the election.

It is going to be an interesting couple of months in Spain.

For further information on these or other issues relating to Spanish Law contact Peter Esders (pje@chebsey.com) or Diego Rubio (drm@chebsey.com) or on 01494 670440

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Charity

Movember



David Flatman, who plays for Bath Rugby Club and who we sponsor under our Bath name of Bath Law is doing his bit to raise money and awareness for men's health issues by taking part in Movember. For those of you who are not aware of Movember this is a campaign to grow a moustache for the month of November and to raise money for good causes whilst doing so. Movember raises money for men's health, in particular prostate cancer and other cancers that affect men.

David is not only growing a moustache for Movember but he is also heading up team VitaMo in his bid to raise money and awareness. At the end of the month David is also helping judge some of the best efforts of other people doing the same as him.

For more information and details of how to support David raise money for this worthwhile cause about Movember generally and about team VitaMo you can go to <http://t.co/4RERZQVY>

David Flatman does his best getaway driver impersonation

Staff profile

Amy French – Criminal Law Department

This month we were delighted to congratulate Amy French on qualifying as a solicitor. Amy came to work at Chebsey & Co in 2008 whilst still studying. She continued to work two days a week whilst undertaking her LPC which she passed with Distinction in 2009.

Although Amy worked in other departments during her training contract she had decided early on in her training that she was interested in regulatory and criminal law. Amy was heavily involved in a prosecution for one of the Local Authorities involving a substantial amount of witness statements and exhibits. The case proceeded to the Court of Appeal and the decision was made in favour of our client. Amy continues to be involved in prosecutions on behalf of Local Authorities for a range of offences.

Amy was always very keen to develop a knowledge of actions against the police which combined a knowledge of civil and criminal procedures and is the only solicitor in Buckinghamshire with a Legal Services Commission contract to provide legal advice and assistance in this area of law. Amy is able to assist with complaints against the police to full civil actions against them to include assault, false imprisonment, wrongful arrest and malicious prosecution.



Why did I become a Solicitor?

From a young age I always said I wanted to be a lawyer but I do not know why.

What is your favourite lawyer joke?

How many lawyers does it take to screw in a lightbulb?

Three. One to screw in the lightbulb and two to sue him for negligence.

What gets you up in the morning?

My two pet rabbits needing to be fed

What is your passion?

Reading and horse riding

Which famous person, dead or alive, would you most like to spend a day with?

Lee Evans

Tell us an interesting fact about yourself.

My sister in law is an Olympic athlete.

Amy is based at our Burnham office and can be contacted on 01628 600850 or amf@chebsey.com



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