Willans LLP | solicitors

70 YEARS 1947 - 2017

Law News

Newsletter for commercial clients

Winter 2017

Record year for our lawyers in national guide

We were delighted to secure a record set of results in *The Legal 500* 2017.

Our commercial litigation team has won a place in the top tier for the second year running, and is described as "able to compete with larger regional players".

Our "adept" employment law practice has been given a new top-tier accolade. Department head Matthew Clayton is praised for providing "calm, measured and commercial advice".

16 lawyers, many of whom rank across several categories, are recommended in the guide. New entries include family lawyer Jonathan Eager and Nick Southwell of our litigation and dispute resolution team.

Commercial property partner Nigel Whittaker is recognised once again as a 'leading individual' in the UK.

Our managing partner Bridget Redmond commented: *"This exceptional set of results is testament to the hard work and calibre of our lawyers. It is reflective of the firm's strong commitment to client service. I am very proud of all those named in this year's edition and their departments".*

Recognition for "technically excellent" Ruth

Chambers High Net Worth, a new international guide aimed at high-net-worth individuals, has recognised Ruth Baker, partner in our wills, probate & trusts department, for her exceptional work.

Ruth, who is described by one interviewee in the guide as "very empathetic in her style and approach, and technically very robust" is ranked as an 'up-and-coming' individual, an accolade which *Chambers* says is for those "at the forefront of their generation".

Ruth advises clients on all aspects of lifetime estate planning, including the preparation of wills, inheritance tax and the creation of trusts.

New faces for commercial & private client teams

Jennifer Cockett, Emma Thompson & Rachel Sugden

We have appointed three new solicitors, further strengthening our private client and commercial property teams.

Emma Thompson has joined our 6-strong commercial property team from WSP, advising clients on property issues such as sales and purchases, leases and ancillary matters.

Jennifer Cockett and Rachel Sugden have joined our wills, probate and trusts department, from Lodders and Harrison Clark Rickerbys respectively. Jennifer and Rachel advise clients on wills, lasting powers of attorney and estate administration.

Recognising the best in county's business

We were delighted to support the 20th Gloucestershire Business Awards on 5 October.

We sponsored the 'Family Business of the Year' award, which was won by used car centre Completely Motoring based in Staverton.

Paul Gordon, litigation and dispute resolution partner, presented the award at the ceremony at Cheltenham Racecourse, which was attended by over 700 people.

We would like to congratulate all those involved – both finalists and winners.

Law News is now available electronically. If you would prefer to receive it in this format then please email us at: law@willans.co.uk

New debt recovery protocol: what do you need to know?

Megan Bullingham - a paralegal in our *Legal 500*-rated dispute resolution & litigation department, specialises in debt recovery.

On 1 October, a new debt recovery protocol came into place which should be complied with before a creditor issues proceedings.

It is designed to reduce the amount of claims put before the court. It applies to businesses (including sole traders and public bodies) attempting to recover debt where the debtor is an individual (including sole traders). It does not cover business-to-business debts.

The introduction of the new protocol is controversial because creditors, used to sending a 7-day letter of claim followed by court action, will no longer be able to proceed on that basis. Debtors will be able to use the protocol to delay having to make payment.

The key changes concern the letter of claim, which should now include the following:

- an up-to-date account statement for the debt, including interest and charges
- details of the agreement under which the debt arises
- if regular instalments have been offered by the debtor but refused by the creditor, the reasons why this is not acceptable
- details as to how the debt can be paid and what the customer can do if they want to discuss payment
- an information sheet and reply form.

Most notable perhaps is that the new protocol has significantly increased the time before a creditor can issue court proceedings. In particular, debtors are given 30 days to respond to the letter of claim, and a further 30 days to complete the reply form.

If no agreement can be reached about the existence, enforceability, amount or any other aspect of the debt, they should consider using an appropriate form of alternative dispute resolution to try and resolve the dispute. If this is unsuccessful the creditor should give the customer at least 14 days' notice of its intention to commence court action.

In cases where the creditor believes recovery of the debt to be urgent, they would need to consider the risks of non-compliance with the protocol. The court could stay proceedings whilst the protocol is complied with, or make a costs order against the creditor.

Megan Bullingham
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Supreme Court puts an end to tribunal fees

Helen Howes - an employment law masters' graduate with extensive experience in employee relations and negotiations.

In July, the Supreme Court ruled that the fees previously charged to those wishing to bring an employment tribunal claim were unlawful, and ordered the government to pay back all those fees paid. The bill is estimated to be around £30 million.

Since 2013, those people wanting to pursue a workplace dispute have had to pay a fee of up to £1,200 in order for their claim to be heard by an employment tribunal. Since its introduction, the trade union UNISON has persistently challenged the tribunal fee structure. It argued that the fees unlawfully restricted individuals' legal right to access to justice and were discriminatory because more women were likely to have to pay the more expensive fee (due in part to both sex and maternity discrimination claims falling into the higher category of fee).

Despite research indicating that the number of claims had fallen by up to 80% since the introduction of the fees, UNISON's argument failed at the employment tribunal, the Employment Appeal Tribunal, and the Court of Appeal. It was therefore somewhat of a surprise when the Supreme Court overruled those previous decisions. It held in favour of UNISON, demonstrating its willingness to limit the government's powers to pass law.

The fees were stopped with immediate effect, and early indications are that the government does not intend to introduce a 'new and improved' fee regime, at least in the short term. At the time of writing the government has not yet detailed the arrangements for the reimbursement of fees, but as soon as this information is released, our employment law team will be in touch with clients who may be affected.

Helen Howes
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Client news

Corporate & commercial solicitor Sophie Martyn recently acted for accountants, business advisors and tax specialists, **Randall & Payne**, providing legal advice in relation to their new website.

The website makeover was a part of an extensive rebranding process. Sophie drafted the website terms and conditions, provision of services copy, website acceptable use policy and cookie policy.

New protection for businesses against groundless threats

Under intellectual property law, individuals and businesses are protected from threats of legal action for infringing a third party's intellectual property rights (IPRs) when those threats are groundless and unjustified.

A threat may be unjustified if, for example, the third party's IPR is invalid, or if it does not actually own it.

It is not hard to imagine that this type of abusive behaviour could be used in the marketplace in order to gain a commercial advantage, and the law recognises that parties should not be subjected to it. The unjustified threats provisions apply to registered trademark, patent or design right infringements. A business that receives an unjustified threat can sue the third party for an injunction preventing further threats, a declaration that there is no infringement and/or for damages to compensate them for any loss.

For a long time the law in this area has been inconsistent and in some respects unsatisfactory.

Earlier this year the Intellectual Property (Unjustified Threats) Act 2017 (the Act) was passed, with certain provisions already in force, and further provisions to come into force later on.

The Act has made various changes in an area which was often misunderstood. It adds greater consistency across IPRs, providing a new statutory test as to what constitutes a threat, and making it clear when professional advisors will not be liable for such threats. The Act also clarifies for solicitors on what basis they can write to alleged infringing parties without fear of an unjustified threats claim being made against them.

It should be noted, however, that there are no statutory unjustified threats provisions in respect of copyright, passing-off or breach of confidence.

Get in touch for clear, expert guidance on this topic.

Paul Gordon
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Paul Gordon - a *Legal 500*-rated dispute resolution partner. He specialises in IP disputes, and has dealt with many cases in both the IPEC and the High Court.

An affordable forum for SMEs with IP disputes

Intellectual property (IP) disputes in the High Court can be costly and complex, but did you know that there is a specialist court which may provide SMEs with a quicker and cheaper way to resolve them?

The Intellectual Property Enterprise Court (IPEC) is in the Chancery Division of the High Court. The IPEC is intended to provide a cost-effective forum to hear IP disputes, as an alternative to the claim proceeding through the High Court in the usual way.

A specialist IP judge will take an active role in case management and ensure that the extent of evidence is strictly controlled (e.g limiting disclosure, expert evidence, and even arguments made at trial).

There is a cap on the value of the claim (currently £0.5m), along with an overall cap on recoverable costs which is (a) £50,000 for proceedings to trial on the issue of liability and (b) £25,000 for an inquiry into damages.

There is a time limit, too – a trial in the IPEC should ordinarily last no longer than 2 days.

Even if a claim is likely to be valued at more than £0.5m the case can proceed in the IPEC if both parties agree. However, due to the more streamlined approach and reduced costs the IPEC is mostly suitable for smaller, shorter, less complex cases with a value below the maximum limit.

One of the purposes of the IPEC is to make litigation more affordable to businesses who wish to protect their IP, and avoid the more expensive process of the usual High Court procedure. It is often suitable for SMEs and can be an effective means to enforce rights in the market place, and to avoid being 'out-gunned' by larger opponents with deeper pockets.

In the case of *77M Ltd v Ordnance Survey Ltd and others [2017] (IPEC)* the judge in the IPEC refused a request by one party to have the case transferred from the IPEC into the High Court, on the basis that to do so would remove the smaller party's access to the courts, and that they would otherwise be unable to fund the case.

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New guidance for employers

ACAS has published recommendations for employers on how they can support parents with premature or ill babies, both following the birth, and on their return to work.

These include ensuring staff are made aware of their right to shared parental leave and paternity leave, and being receptive to flexible working requests or time off for follow-up hospital appointments.

It also provides advice on how to communicate with an affected employee, and how, or if, colleagues should be informed.

Partner Paul Symes-Thompson and solicitor Sophie Martyn in the corporate & commercial team recently acted for **Cheltenham Equine Vets LLP** in the preparation of a new LLP agreement. The practice, which offers specialist equine veterinary services, was established in January 2015 when two long-standing equine practices, Woodlands Equine Vets and Dragon Equine Vets, went into partnership.

Matthew Clayton and **Helen Howes** in our employment law team delivered training on immigration compliance to an employer in the energy sector who sponsors non-EU workers. Contact us for bespoke training packages.

12 steps towards GDPR compliance

Matthew Clayton - a *Chambers*-rated employment law partner praised by clients for his "*down-to-earth, practical and common-sense approach*".

The juggernaut that is the General Data Protection Regulation (GDPR) rolls ever closer towards us. The Data Protection Bill 2017 has now been placed before Parliament and will, in due course, mirror the GDPR in UK law so that it will still have effect when we leave the EU in 2019. GDPR and the new Data Protection Act will come into force on 25 May 2018.

The Information Commissioner's Office (ICO) has published a useful list of things which businesses should be doing in order to prepare for GDPR-Day.

- **Awareness.** You should make sure that decision makers and key people in your organisation are aware that the law is changing to the GDPR. They need to appreciate the impact this is likely to have.
- **Information you hold.** You should document what personal data you hold, where it came from and who you share it with. You may need to organise an information audit.
- **Communicating privacy information.** You should review your current privacy notices and put a plan in place for making any necessary changes in time for GDPR implementation.
- **Individuals' rights.** You should check your procedures to ensure they cover all the rights individuals have, including how you would delete personal data or provide data electronically and in a commonly used format.
- **Subject access requests.** You should update your procedures and plan how you will handle requests within the new timescales and provide any additional information.
- **Lawful basis for processing personal data.** You should identify the lawful basis for your processing under the GDPR, document it and update your privacy notice to explain it.
- **Consent.** You should review how you seek, record and manage consent and whether you need to make any changes. You will need to refresh existing consents now if they don't meet the GDPR standard.
- **Children.** You should start thinking now about whether you need to put systems in place to verify individuals' ages and to obtain parental or guardian consent for any data processing activity.
- **Data security breaches.** You should make sure you have the right procedures in place to detect, report and investigate a personal data breach.
- **Data Protection by Design, and Data Protection Impact Assessments.** You should familiarise yourself now with the ICO's code of practice on Privacy Impact Assessments as well as the latest guidance from the EU's Article 29 Working Party, and work out how and when to implement them in your organisation.
- **Data Protection Officers.** You should designate someone to take responsibility for data protection compliance and assess where this role will sit within your organisation's structure and governance arrangements. You should consider whether you are required formally to designate a Data Protection Officer.
- **International.** If your organisation operates in more than one EU member state (i.e. you carry out cross-border processing), you should determine your lead data protection supervisory authority. Article 29 Working Party guidelines will help you do this.

To this list we would also add that organisations should review their contracts with any data processors they use (e.g. payroll bureaux or marketing agencies) and make sure they cover the points required by the GDPR.

Any organisations which are acting as data processors should also review their terms of business and any contracts they have with sub-processors.

We are able to help with all of these areas so please feel free to contact us if you need any assistance.

Matthew Clayton
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Get clued-up on the GDPR

We have created a handy **fact sheet** to explain what business owners may need to do to prepare for the GDPR.

You can access the fact sheet via the 'downloads' section of our website.

Client news

Commercial property partner and charity expert Alasdair Garbutt advised **Holy Trinity Brompton (HTB)** on the acquisition of St Werburgh's Church, Derby, via a special purpose company set up for the acquisition. HTB is growing through partnerships with other churches and in this case acquired St Werburgh's Church, which previously had been used as a pizza restaurant. There were complex issues and interests affecting the church and there were a number of other parties involved.

HTB, a registered charity, is an Anglican church which has 4 sites across the heart of London.

Duomatic principle throws shareholder consent under spotlight

Solicitor Sophie Martyn has general corporate and commercial experience with a particular interest in advising LLPs and start-ups. With a background in science, she is naturally analytical in her approach.

The Duomatic principle is a long-established common law principle of company law. It allows shareholders of a company to consent to a matter informally, without the need for attending and voting at a general meeting. The consent must be unanimous and be given in full knowledge of the matter in order to be binding in the same way as a resolution passed at a general meeting. The Duomatic principle was the subject of a recent Court of Appeal decision.

In *Randhawa and another v Turpin and another (2017)*, the Randhawas were creditors of BW Estates Limited (Company) in which Mr David Williams (DW) held 75% of the shares on bare trust for his father, Mr Robert Williams (RW). The remaining 25% was held by Belvadere Investment Company Limited (Belvadere), which was dissolved in 1996.

The Company's articles of association (Articles) stated that the quorum for board meetings was two directors and the quorum for general meetings was two shareholders. However, DW had been acting as the sole director of the Company since 2009 when RW was disqualified as a director.

At an informal meeting, it was decided that the Company would be put into administration and DW resolved to appoint administrators at a board meeting. The Randhawas claimed that the appointment of the administrators was invalid because the decision had been made at an inquorate board meeting. The administrators argued that their appointment was valid under the Duomatic principle.

The High Court held that:

- the quorum in the Articles had been informally amended on the basis that DW had been allowed to run the Company as a sole director
- the assent of Belvadere was not necessary as it was incapable of exercising its voting shares having been dissolved
- even if consent was required, the Duomatic principle had been triggered by the fact that RW was likely to be the beneficial owner of all the shares in the Company and had assented to the Articles being amended.

The Randhawas appealed and the decision was overturned by the Court of Appeal for the following reasons:

- Belvadere remained a member of the Company (being listed on the register of members) and that membership could not be disregarded.
- The Duomatic principle requires the consent of all the shareholders notwithstanding the fact that Belvadere was a dissolved company and was therefore incapable of consenting.
- Even if it could be shown that RW beneficially owned the shares in Belvadere, his consent would be meaningless because Belvadere's assets had been transferred to the Crown and the Crown had not consented.

Frustratingly, the judgment did not comment on whether the Duomatic principle will apply when a company's beneficial owners assent where there is nobody formally entitled to agree on behalf of the registered shareholder.

However, the case is a reminder of the importance of keeping the register of members up-to-date as the Duomatic principle requires unanimous consent of all the voting shareholders on the register of members, irrespective of whether or not they are capable of voting.

Sophie Martyn
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Commercial property partner **Susie Wynne** advised landowners on a promotion and option agreement, potentially valued at over £2.5 million. The agreement was granted to a national housebuilder.

Employment law partner **Matthew Clayton**, litigation and dispute resolution partner **Paul Gordon** and corporate & commercial partner **Paul Symes-Thompson** have worked collaboratively to resolve a complex and high-value shareholder dispute. We have received an influx of such enquiries lately. If you are in need of advice please contact our experienced, multi-disciplinary team.

All I want for Christmas is...a rent review?

Emma Thompson is a solicitor in our *Legal 500*-rated commercial property team. She advises clients on property issues such as sales and purchases, leases and ancillary matters.

Christmas is fast approaching and with all of the distractions of the season it might be easy to forget that a rent review may be due under your lease, particularly as 25 December is the usual December quarter day.

This is often the last thing on anyone's mind at this busy time of year, and landlords and tenants often don't wish to bother each other with the issue. However, if you decide to leave the rent review until a later date, or do not finish one that is already underway, difficulties may arise and the New Year could be a costly time.

A rent review usually results in one of the following:

- **Rent is unchanged.** Many rent reviews are carried out on an upward only 'open market' basis. Therefore if the market rent is the same, or if it has decreased, the tenant will continue to pay rent at the current rate.
- **Rent decreases.** A few fortunate tenants have leases with a review to be carried out on a true 'open market' basis allowing for downward rent. In this case it is in the tenant's best interests to get the review carried out as soon as possible, particularly as they will usually carry on paying the rent at the current rate until the new rent is set.
- **Rent increases.** The tenant will continue to pay rent at the current rate until the new rent is agreed, however, in the case of an increase, review clauses usually state that the new rent will apply from the review date. This means the tenant must pay the shortfall between the old and new rent for the period during which the rent review was carried out, usually as a lump sum with interest. In some cases failure to pay the shortfall within the time allowed by the lease could result in default interest being payable and even lead to the landlord being able to take forfeiture proceedings against the tenant to terminate the lease.

So, whilst on the face of it a tenant may not see the advantage of triggering the rent review, it is often in their best interests to have any increase agreed and the matter settled as soon as possible. This way, they are aware of the ongoing rent liability and can factor this into the future running costs of the business.

Emma Thompson
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Contracts and Brexit: It's time to think ahead

Paul Symes-Thompson, head of our corporate & commercial team – *Chambers UK* says: *"described as a tour de force in the Cheltenham market."*

For more detailed information, download the 'Contracts and Brexit' fact sheet on our website.

Are you entering into new contracts or re-negotiating existing ones? The time is ripe for directors to consider the potential implications of Brexit.

If a company is entering into contracts now which will run on after Britain leaves the EU, or which might be affected by a Brexit-related event, then directors should consider at this stage whether the contract should expressly deal with Brexit. Failure to do so may mean that a company is tied into a contract which, post-Brexit, it is no longer able to perform or which is no longer of any commercial benefit to the company.

The risk associated with not including a Brexit provision in any new contract, or re-negotiating such a clause in any existing contract, is that, without it, a company will still have to continue to perform the contract in full. This will be the case even if, as a result of a Brexit-related event, doing so is no longer commercially attractive or it can no longer fulfil the contract. The company could find itself in breach of contract or facing termination for default and an action for damages.

So how can companies protect themselves when entering new, and re-negotiating existing, contracts? A "Brexit clause" could trigger some change in the parties' rights and obligations as a result of a defined event. The problem is that the actual impact of Brexit is still uncertain, meaning that it is unlikely that the contract could be drafted to cover every eventuality. But there are two types of clause that could be included in contracts to help protect you from adverse consequences:

- **Specific event/specific consequence clause:** if a specific Brexit-related event occurs (eg. currency exchange rates fluctuate), a specified consequence will follow (eg. the price of products is adjusted).
- **Trigger/renegotiation/termination clause:** if a trigger occurs (eg. the imposition of tariffs) then the affected party can request a renegotiation and if no deal is reached the affected party can terminate.

There are likely to be some standard provisions already included in a commercial contract which could help if a Brexit-related event affects the contract adversely, but this will depend on how the contract is drafted.

Of course, in certain circumstances a Brexit clause may be unnecessary. These include, for example, short term contracts where parties can revise the terms to address the impact of Brexit once it happens, or contracts which include a right to terminate on short notice without penalty.

Paul Symes-Thompson
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Charities and leases – what trustees need to know

Alasdair Garbutt – a *Legal 500*-rated commercial property partner who is experienced in sales & acquisitions, development transactions, landlord and tenant and property management matters.

Regardless of their legal structure, all charities have to comply with certain requirements when dealing with land. Most of these duties, set out in the Charities Act 2011 (the Act), will apply to the trustees of the charity.

However, many trustees are unaware of these rules, especially when they are granting short term lets or assured shorthold tenancies (ASTs).

The grant of a lease is treated as a 'disposal' for the purposes of the Act. So whatever the length of the lease, certain procedures must be followed by the trustees before a lease is granted.

Before granting a lease for 7 years or more, the charity trustees must:

- obtain and consider a written report on the proposed lease from a qualified surveyor, who must be a member of the RICS and have experience in the relevant area
- advertise the proposed letting if advised to by the surveyor in their report. Note that it may not be in the best interests for the charity to advertise if it is a simple lease
- decide that they are satisfied (having considered the surveyor's report) that the terms of the lease are the best that can be reasonably obtained.

Before granting a lease (including ASTs) for less than 7 years, the charity trustees must:

- obtain and consider advice from an appropriate person. This does not need to be a qualified surveyor (although this would make sense!) and the advice does not need to be in writing
- decide that they are satisfied (after considering the advice) that the terms of the lease/AST are the best that could be reasonably obtained for the charity.

Once these steps have been taken, the letting document itself must include the relevant Charities Act statement and/or certificate prescribed by the Act.

Certain transactions are excluded from these procedures, notably a scheme made by the Charity Commission or a court, or any disposal expressly authorised by statute, for example the Housing Act.

Trustees should therefore ensure that they are aware of the requirements of the Act before they grant leases and ASTs. If they don't, they run the risk of being found to have disposed of charity land without considering whether this was in the charity's best interests.

Alasdair Garbutt
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Pre-employment screening – what are the limits?

Jenny Hawrot - an experienced employment lawyer who advises individuals and businesses on the full range of employment issues.

Recruiting the right member of staff takes considerable time and effort, and so understandably employers want to get it right. It used to be standard for an employer to require a potential candidate to complete a medical questionnaire as part of the recruitment process, but since the introduction of the Equality Act in 2010 employers are effectively 'banned' from asking candidates questions about their health before offering employment.

That said, there are exceptions and there are some health questions which can be safely asked on an application form or prior to interview. For example, it is reasonable for an employer to ask a candidate if they have a disability which requires reasonable adjustments to be made to the recruitment process (not the role) and it is permissible to ask a pointed question if it directly relates to a fundamental requirement of the role, such as whether a candidate for a position as a scaffolder has the ability to climb scaffolding at height.

If a candidate volunteers information about their health in an interview, the interviewer should acknowledge the point made but refrain from asking further questions or entering into a detailed discussion. This should only take place once a job offer has been made.

This can often feel uncomfortable as the interviewer may wish to come across as interested and understanding by asking further questions, but to do so may risk a later claim of discrimination if the candidate is unsuccessful and believes the information discussed negatively impacted their prospect of being offered the role. Interviewers need to bear in mind that anything said during an interview can be relied upon in an employment tribunal, and because of this, businesses need to train staff to know what questions can and cannot be asked.

Jenny Hawrot
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Unexpected liability for contaminated land

Chambers-rated partner Susie Wynne is noted for her extensive commercial property experience and is described as "*diligent*" and "*efficient*".

You might think that it would be safe to allow a statutory body such as the local authority onto your land to carry out potentially contaminating activities (such as landfill), on the basis that they will always be around to take responsibility for their activities. However, a recent Court of Appeal decision involving Powys County Council (Powys) has highlighted that where there are changes to statutory bodies, such as local authorities or utility companies, liability for polluting acts will not necessarily be transferred to the successor body.

The predecessor local authority to Powys had operated a landfill site on a farm in Wales until 1992. They had then carried out works to restore the site and bring it back into agricultural use. Following local government changes, Powys became the successor local authority.

Powys then continued to monitor the site, operating on it a treatment infiltration plant and pumping station for nitrate, as it believed that it was responsible under the contaminated land regime for any potential contamination caused by its predecessor body. However, in 2015, Powys removed the treatment system and stopped monitoring the site. Powys claimed that, having reviewed its position, it was not responsible for any privately-owned landfill site where landfill operations had ceased before it became the relevant authority.

Unfortunately for the owners of the farm, the Court of Appeal agreed. Under the contaminated land regime, liability is imposed in the first instance on those who caused or knowingly permitted the contaminating substances to be present on the land. These are referred to as "Class A Persons". If no Class A Person can be found, liability passes to the current owner or occupier of the land, regardless of whether that person was aware of the contamination.

The Court of Appeal has held that only the original person who actually caused or knowingly permitted the contamination can be a Class A Person. This does not include any successor body to a statutory body, unless the legislation transferring the liabilities from the previous body to its successor contains very clear wording transferring future, as well as existing, liability. The 1996 legislation which had created Powys County Council had not contained clear enough wording to transfer liability.

Whilst this decision gives a great deal of comfort to local authorities, it is less comfortable for landowners who have allowed local councils or other statutory bodies to operate on their land. In particular, anybody considering buying potentially contaminated land from a local authority, or allowing one to carry out operations on their land, would be wise to insist that the local authority backs up any environmental indemnities or clean-up obligations with insurance. The aim is to avoid being left 'holding the baby' because of poorly worded legislation next time there is a change in local authority structures.

Susie Wynne
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Contact

For advice on any of the issues covered in *Law News* or any other area of law, these are the people to contact in the first instance.

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