

ADAMS HARRISON COME TO SAWSTON 14TH NOVEMBER 2008

We are delighted to announce that Adams Harrison acquired the long-established practice of Webb and Partners of 43 High Street, Sawston on 14th November 2008.

Webb and Partners has served some of the legal needs of people in and around Sawston for over 20 years. The firm has built a solid reputation for property transactions and wills and probate work which will fit in well with our own established departments. In addition we will provide a far greater range of legal services including family, employment, civil and commercial litigation, criminal and regulatory work.

Many will see this acquisition as a bold, even daring, step in the current uncertain economic climate. However, we believe Sawston is exactly the kind of locality which

will benefit from a firm like ours with the emphasis on serving the needs of individual clients and small to medium-size businesses.

We look forward to meeting old and new clients and helping them with their various legal transactions and problems.

PAUL CAMMISS — *Managing Partner*



From left to right Tom Harrison — Senior Partner, Peter Webb of Webb & Partners and Anthony Marris — Commercial Property Solicitor.

SOLICITORS STRESSED?

According to new research 78% of the legal profession appear to find their job stressful. This makes it the second most stressful occupation in the Country after the recruitment industry. It seems women are more likely to be stressed than men and the most common reaction to stress is, unsurprisingly, getting angry, followed by

eating, crying and drinking.

A straw poll of lawyers at Adams Harrison suggest that levels of stress are significantly below the national average which we put down to the fact that we have extremely nice clients and excellent support staff.

SHOSHANA GOLDHILL — *Family Partner*

COMPANY SECRETARIES ABOLISHED?

From the 6th April 2008, private companies no longer need to have a company secretary.

Unfortunately this does not mean that a company can simply dispense with the services of its company secretary, since a requirement that a company has a company secretary will still be enshrined in articles of most private companies.

If that office is to be abolished, the articles must first be amended. If they are not so amended and the company dispenses with the services of its secretary, that company will be unconstitutional and its activities unlawful.

RHODRI REES —
Commercial & Property Partner

ST NICHOLAS HOSPICE FUNDRAISER

At the beginning of June Adams Harrison, along with a number of other local solicitors, participated in a week of fundraising for St Nicholas' Hospice in Bury St Edmunds.

Will clients at each participating firm were invited to make a donation to the Hospice in place of the fees they would normally be charged to have their Wills written. As a result in excess of £15000 was raised. The picture shows Melanie Pratlett — the partner responsible for our Wills Estates and Trusts team receiving a certificate from Jane Creed of St Nicholas Hospice.



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LASTING POWERS OF ATTORNEY — OVERLOAD

Lasting Power of Attorney forms (LPAs) replaced the Enduring Power of Attorney forms (EPAs) in October 2007. The new LPA was intended to be an easier and safer system for both the Donor (the person wishing to make the LPA) and his/her Attorney(s) (the person or person(s) being appointed under the LPA by the Donor).

Unlike the old system of EPAs, LPAs cannot be used until they are registered with the Public Guardianship Office (PGO), whether the Donor has mental capacity or not. The registration fee to the Public Guardianship Office is £150 for an LPA. The cost, therefore, involved for a client has not only increased in relation to the preparation of the forms, due to their complexity but there is no alternative but to register the form for it actually to be used. This is not good news for the majority of the people who are living off low incomes and perhaps have no savings.

Unhappily the PGO have adopted a very unhelpful and inflexible approach to the registration of these forms which have proved lengthy and somewhat confusing for all parties involved, including the PGO staff themselves. One of my cases took 8 months to complete registration.

The PGO claim that a lot of the delay has been due to the overwhelming number of applications, which they had not expected. The mere fact that an LPA cannot be used until registration should have alerted the

PGO to the likely increase in applications.

Inflexibility seems to have been the main problem with the staff at the PGO. As with all new forms and legislation, there will always be teething problems. Flexibility is, therefore, essential in order to ensure matters run as smoothly and as speedily as possible. The PGO staff have also been inconsistent with their approach to these problems which has not helped.

The PGO have apologised for the delays and inconsistencies and a review into how the Mental Capacity Act is working and how the forms are being processed is underway.

Changes are likely to be implemented in April 2009 when the fees should come down from £150.00 to £120.00 and the application forms will hopefully be simplified. It is also proposed to introduce a new level of Court appointed deputies to provide short term support and scrutiny where needed.

Despite the problems I believe LPA's are very important as a means of enabling people to ensure that their financial and personal affairs are properly conducted and regulated. It is a shame that the new legislation has got off to such a dismal start but hopefully with the review matters will now improve.

KIM DALBY —
Fellow of the Institute of Legal Executives

ENERGY PERFORMANCE CERTIFICATES

Energy Performance Certificates or EPC's are now mandatory for:

1. The sale and letting of all dwellings from the 1st October 2008 including non-market sales, the sale of property portfolios and right to buy transactions.
2. The sale and letting of all non-residential buildings. Until the 1st January 2009 non-residential buildings of less than 2,500 square metres which were on the market before the 1st October 2008 do not need an EPC at

the point of first marketing but do require one before contracts for the letting or sale are signed.

There are still a number of exceptions which include churches, temporary buildings, industrial sites, workshops and non agricultural buildings with low energy demands, and stand alone buildings with floor areas of less than 50 square meters which are not dwellings.

RHODRI REES —
Commercial & Property Partner

DISPOSAL OF FOREIGN PROPERTY ON DEATH

Many people now own property abroad. The most popular countries are France and Spain although Italy is becoming an increasingly popular choice.

Most people take the sensible precaution of making a Will disposing of their property on death. This is all well and good when the Testator (the person making the Will) is domiciled in the United Kingdom and whose property is in this Country. Problems can, however, arise where the Testator, although still domiciled in the UK has acquired property in a foreign jurisdiction.

Spanish inheritance laws, for example, provide that inheritance of immovable property devolves according to the law of its location and not the nationality of the property owner. For this reason an English or Scottish Will may be ineffective to dispose of Spanish property. Furthermore the English doctrine of trusts is not recognised by Spanish law.

I have recently dealt with the estate of a deceased who had made an English Will before selling up and moving to live in Spain. On his death he left only Spanish property but having not made a Spanish Will his widow had to apply for a Grant of Probate to his English Will.

In France similar problems can arise because of the forced heirship rules which also apply there. It is important that anyone owning property abroad takes appropriate advice so as to ensure that they have a Will that complies with the relevant foreign jurisdiction. Failure to do this could lead to unexpected and undesirable results.

Here at Adams Harrison we do have access to foreign lawyers and can make the necessary arrangements to ensure that our clients making foreign Wills comply with the necessary formalities in the relevant jurisdiction.

MELANIE PRATLETT — Partner

THE MYSTERIOUS CASE OF MISS MARPLE AND THE MISSING WILL

Agatha Christie's famous amateur detective, Miss Marple, was played by Dame Margaret Rutherford who died in 1972. Unhappily she did not leave a Will and thereby hangs a sorry tale.

Margaret Rutherford was survived by her husband, Stringer Davis, who she appeared with in four films between 1961 and 1964. During her declining years she employed a former opera singer called Violet Lang-Davis as a companion. After Rutherford died Violet Lang-Davis stayed on to look after Stringer Davis and at one point became so close to him that they contemplated marriage.

Stringer Davis died in August 1973 leaving a Will in which he bequeathed his entire estate to his wife who, by that time, was dead. The Will left nothing to Violet Lang-Davis and because the gift to his wife lapsed his estate should have passed to a distant cousin, William James Davis.

Violet Lang-Davis, realising that she had been left nothing in the Will, forged a Will naming herself as sole beneficiary and duly set about selling off all Margaret Rutherford's possessions including the Oscar and Golden Globe she won in 1964 as best supporting actress in 'The VIP's'.

Lang-Davis sold a considerable quantity of antiques and memorabilia to a Fulham antiques dealer called John Harvey telling him that she was Margaret Rutherford's niece. She later told the police that there had been a burglary and that some of the items sold to Harvey had been stolen in the burglary.

In June 1974 the police launched an investigation into the alleged burglary which led them to John Harvey who said

that he had bought the items from Lang-Davis. When questioned about this she then claimed that Harvey had stolen the Oscar and the Golden Globe but later admitted that she had sold them because she needed the money.



A handwriting expert proved that the Will was a forgery and in October 1975 Lang-Davis was arrested and remanded in Holloway Prison pending her trial at Reading Crown Court on charges of theft, criminal deception and forgery. She was then granted bail but failed to appear at her trial and has not been seen since. In 1985 a Prosecutor in the DPP's office noted 'Lang-Davis, it would appear, never stood trial and is still at large'. This is perhaps, a mystery befitting Agatha Christie herself. Anyway the whole problem could have been easily avoided by Stringer-Davis updating his Will and leaving his estate to Lang-Davis. After all it is hardly likely that he would have wanted his estate to go to a distant cousin who he hardly knew.

Stringer Davis died shortly before the enactment of the Inheritance (Provision for Family and Dependants) Act 1975 which would now provide a possible remedy for someone in Stringer Davis' predicament.

MELANIE PRATLETT — Partner

WILL YOU STILL LOVE ME WHEN I'M 65?

An Employment Tribunal recently ruled that a Recorder (Deputy Crown Court Judge) could not be made to retire at the age of 65 as this amounted to age discrimination. The Recorder was an office holder as distinct from an employee and for this reason compulsory retirement

at the age of 65 has to be objectively justified as a proportionate means of achieving a legitimate aim. The same rule applies to partners in firms of Solicitors which is possibly something for me to think about in 7 years time.

TOM HARRISON — Senior Partner

Autumn/Winter 2008

THE PERILS OF BOUNCY CASTLES

The Court of Appeal has recently decided that an 11 year old boy, Samuel Harris, is not entitled to damages in respect of serious injuries sustained whilst playing on a bouncy castle in September 2005. He had just completed a somersault when, before he had time to get to his feet, another much larger boy, also performing a somersault, accidentally kicked him in the head.

Sam suffered a depressed skull fracture leaving him with severe permanent cognitive, behavioural, emotional and social consequences. The bouncy castle was owned by a Mr. and Mrs. Perry who had hired it for a birthday party for their triplets. The Trial Judge found that Mr. and Mrs. Perry had been negligent. He ruled that they had failed to maintain supervision of the children playing on the bouncy castle, failed to prevent somersaulting and should not have allowed a much bigger boy on to the bouncy castle.

The Court of Appeal, on reversing the decision pointed out that it was impossible for parents to preclude all risk when children are playing robust games and it would not be in the public interest for the law to impose such a duty upon them. In all the circumstances of the case the Court felt that Mr. and Mrs. Perry could not reasonably have been expected to do anymore than they did and that poor Sam's injury was nothing more than 'a freak and tragic accident'.

This is, like many cases, one that could have gone either way. To what extent the trial Judge was influenced by the seriousness of Sam's injuries and the fact that his mother was a single parent, it is hard to say. The Court of Appeal clearly took the view that parents organising children's parties should not be held accountable for accidents unless they have clearly demonstrated an unreasonable lack of care and foresight.

TOM HARRISON — Senior Partner

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MEDIATION IS GOOD

There has been a stubborn reluctance by parties to disputes to put their trust in mediation. To some extent this attitude has been fostered by lawyers who are not always convinced of the benefits of mediation and feel more comfortable working in the medium of formal litigation through the Courts.

So what are the pros and cons?

In my experience the pros are:

- Mediation, if successful, will be much faster than litigation.
- It will also be less expensive.
- A Mediator can be more imaginative in finding a solution than a Judge.
- Mediation is less stressful to the parties.
- 85% of Mediations are successful.
- The result is not imposed on you, you agree to it.

The cons are:

- There is no guarantee Mediation will result in a settlement.
- If Mediation fails you may well have to go to Court anyway.

Er. That's it.

Another reason for agreeing mediation is that a refusal to mediate could result in a costs Order against you. Although the Court cannot force a party to mediate it can penalise one who unreasonably rejects mediation.

There are numerous providers of mediation services some local and some nationwide. I have used a number of mediators and it is important to choose the right horse for the particular course.

There is currently a Court appointed mediation service for small claims (currently under £5,000) although I understand the results are patchy.

I have no doubt that we shall see an increasing number of disputes being mediated which is a good thing. Anyone who has suffered the anxiety and expense of litigation will agree.

JENNIFER CARPENTER — Partner

LONG SERVICE

Three members of our staff this year celebrate a combined total of 60 years service with Adams Harrison.

My own secretary has now been working with me for 25 years. Carol Pollitt joined the firm from school at the age of 17 and has been very largely responsible for keeping my head above water ever since. Thank you, Carol.

Laura Phillips has clocked up 20 years the last 6 years working with Roy Withers in our Family Department at Haverhill. Laura claims to enjoy escaping from her role as housewife and mother for the peace and quiet of the office.

Cathy Buck has now been with us for 15 years during which time she has



From left to right Cathy Buck, Laura Phillips and Carol Pollitt.

established a very solid reputation as a residential property conveyancer.

We wish Carol, Laura and Cathy their respective happy anniversaries and, credit crunch or not, hope they will be with us for many years to come.

TOM HARRISON — Senior Partner

CARNIVAL

The staff and partners of Adams Harrison took part in Saffron Walden carnival which happens every 3 years in the town and raises money for local charities.

The theme of the carnival this year was Hollywood and we based our float on Oscars/Hollywood stars. The lorry used was kindly donated by E G Hicks of Lt Walden.



Great fun was had by all and sweets and balloons bearing the Adams Harrison logo were handed out to members of the public and £190.57 was raised.

THREE PARROTS

A man goes into a pet shop to buy a parrot. There are three parrots for sale. The first one is priced at £100.00. 'Why does the parrot cost so much?' asked the customer. The shop owner says 'Well, that parrot knows how to do legal research'.

The next parrot, it appears, is priced at £250. 'This is because,' says the owner, 'it can do everything the other parrot can do and also prepare a brief that would win any case'.

The startled customer then asked about the third parrot only to be told that this one would cost him £2,000. He asked the shop owner 'What can it do that the others can't?' to which the owner replies 'To be perfectly honest, I have never actually seen him do anything. But, the other two call him senior partner'.