

Outreach News for Fisher Jones Greenwood Solicitors



Welcome to Outreach News, which highlights legal issues and the legal services provided by FJG from our offices in the Tendring, Colchester and Chelmsford areas. We now provide a complete range of services, including legal aid, from our full time office at 98 Pier Avenue, Clacton, where we can now also offer legally aided Family Mediation services every Tuesday. For mediation enquiries contact 01206 835300 and ask for Family Mediation.

This edition contains articles on potential winter troubles at work, child contact at Christmas and a guide to probate as well as an update on all the recent news and events from Fisher Jones Greenwood. I hope you find it useful and informative and would like to take this opportunity to wish everyone a very merry Christmas and a happy new year!

A handwritten signature in black ink, reading 'N Humphreys'.

Nigel Humphreys, Partnership member

News and Events

Our Private Client team has expanded with the appointment of solicitor Vanessa Santomauro, who will be based in our Chelmsford office. Vanessa joins FJG in the role of dealing with wills, probate, lasting powers of attorney and court of protection work. Her formidable skills will add to the existing expertise in the Private Client team help to continue their success.



FJG have also been hard at work giving back to the community and have donated £250 to Colchester MIND. The charity works to improve the lives of people experiencing emotional or mental health problems, by helping them take control of their mental health. We've also donated to Stepping Stones, an integrated nursery for children with additional needs. The £300 donation will help go towards play equipment to help improve the quality of the children's experience.

There's also a lot to look forward to in the new year with a series of events already booked into the FJG calendar so make sure they are in your diary and [check our website for more information](#):

- In March, FJG hope to host "It's a Knockout" in Colchester in aid of the NSPCC Business Group. A fun day out and also a great team building opportunity, get in touch with Marion Knocker to find out more about how to enter
- On April 2nd it is 'World Autism Awareness Day' and FJG are hosting an informative event in Colchester for parents and those working with parents, with speakers providing useful information about Autism.
- On July 6th, we hope to host the FJG Games with a series of sporting events throughout the afternoon at the University of Essex and it promises to be a great networking chance as well as a fantastic occasion

Winter Weather Employment Issues

With the snow warnings coming thick and fast it can't be long before we are battling the elements once more. Although the sight of newly fallen snow can be exciting and beautiful, it can also be a potentially confusing time for employers and employees.

With regards to where employers and employees stand should the snow prevent them from actually arriving at work, here are some common questions that you may need answered, should you have more then do feel free to give us a call.

Do you have to pay staff who are unable to get into work due to snow and difficult transport conditions?



Cate Hammett

Employees must attend work unless they are sick, on holiday or on maternity leave etc. Therefore the responsibility is on the employee to get into work, even on days with adverse weather conditions. Consequently, one line of thought suggests that if some employees cannot make it in then their absence should be treated as unauthorised, and consequently not be paid.

However, the problem comes when the employee's normal mode of transport is out of action. You need to encourage employees to look into alternative means of transport and be properly prepared in case their first choice is unavailable. It is key though that employees do not feel that they should risk their safety to get into work. At this point it may be worthwhile looking into options such as working from home during the bad weather and preparing now for implementation of such a strategy. For example, a working from home policy in your staff handbook would be useful and maybe consideration of an 'adverse weather policy' with details of who to

contact when an employee may not be able to make it in etc. It should be made clear to those that do elect to work from home under the policy that this is a privilege not a right and that the employer will, if necessary, monitor output in those circumstances.

Working from home is always the first thought, but with some businesses this just isn't an option, for example the retail sector, so what then? You could pick one of the following:

- Any time off work in these circumstances will be unpaid (if you are planning to rely on this one, you will be relying (ideally) on a contractual provision); or
- Employees will be paid but they will have to make the time up at a later date; or
- Employees can request to take time off as paid annual leave or as unpaid time off for dependant's leave (more on this later).

In reality not many contracts will state that employees who cannot get into work because of the weather will lose a day's pay, so do be careful. In addition, employees have statutory protection against unauthorised deduction of wages which could come into play should you deduct wages for a 'no show'. Of course the rebuttal will be there was no work done so no pay was earned, but it's better to avoid being drawn into disproportionately expensive litigation over such points.

What if you are forced to close the office due to the severe weather conditions?

If you make the decision to shut your business because of the weather, or other unforeseen event, and there is no work available for willing and able employees, you cannot usually withhold pay. If you choose to do so regardless, employees can exercise their rights regarding unlawful deductions of wages under the Employment Rights Act.

The only real option if you do not wish to pay under these circumstances, is for you is to include an 'un-paid lay off' clause in your employee's contracts, or if the employees expressly consent to being laid off without pay.

Do take further advice though before going down this route as the rules surrounding lay-off clauses and statutory guarantee payments are complicated.

If we haven't answered all your questions here then our Employment team are happy to hear from you on 01206 835 230

A Guide to Probate and Administration of Estates

When somebody dies it is left to either the people named in their Will as Executors, or if there is no Will their next of kin to deal with the administration of their estate and if necessary, an application for probate. Probate is the process where an individual or individuals apply to the Probate Registry for the legal document to enable them to administer the estate. There are three types of Grant:-



Susanne Grimwade

1. Where a deceased leaves a valid Will appointing an Executor who is able and willing to prove the Will, then a **Grant of Probate** will be issued to him.
2. Where the deceased has left a valid Will but no Executor was appointed or he is unable or unwilling to act a **Grant of Letters of Administration with Will Annexed** will be issued to the person entitled.
3. Where the deceased has not left a valid Will then a **Grant of Letters of Administration** will be issued to the person entitled.

When is Probate required?

It is a common misconception if you have made a Will or you are married your Executors or next of kin do not need to apply for probate. The reality is if your estate includes a flat or house which is in your sole name or owned jointly as beneficial tenants in common, (in other words your share in the property does not automatically pass by survivorship to the surviving joint owner), an application for probate or in the absence of a Will Letters of Administration will be required.

In addition if after the repayment of any debts, funeral expenses, and tax the estate comprises more than £5,000 worth of assets an application for probate may still be required. It is, however, worth mentioning in some instances even where the estate comprises more than £5,000 worth of assets some banks and building societies will agree to release larger amounts without the need for probate or letters of administration.

How do I apply for Probate?

1. The first step is to obtain full valuations of all the assets.
2. The next stage is to complete the probate application forms and depending on the size of the estate the relevant Inheritance Tax forms before lodging with the Probate Registry and H M Revenue & Customs.
3. If the estate is liable to Inheritance Tax this must be paid.
4. Approximately ten working days after submission of the forms, (this can take longer where there is Inheritance Tax to pay), probate is granted.

What happens once Probate is granted?

As soon as probate is granted this must be lodged with the various asset holders. The assets will then on completion of the various closure forms be released to the Executors or Administrators. Only once all the assets are encashed, debts including any outstanding inheritance tax or income tax paid, can the estate be distributed amongst those entitled to the assets of the deceased.

Should I use a Solicitor?

The simple answer is whilst it is not necessary to instruct a solicitor to make an application for probate you will see the process of applying for probate is far from straight forward. A recent report by a legal group Solicitors for the Elderly highlighted the risks of even the simplest of estates being administered without proper legal consultation. Risks included the failure to understand trusts incorporated within the Wills designed to protect vulnerable beneficiaries, or to reduce the impact of tax on the deceased's estate.

Christmas Contact

The most important tip to remember at Christmas is always put your children first and act in their best interests at all times. This can be especially hard in the midst of a difficult separation but Christmas is a magical time for children and it is important to keep it that way despite family difficulties.



Charlotte Digby

If you decide to spend your Christmas Day apart there are several things to take into consideration. If contact is not already agreed it is a good idea to get this arranged in advance of the weeks leading up to the festive period. It is best to share the days over Christmas out between you. A good way to approach this is to sit down and ask each other what contact can each of you have, as opposed to demanding the contact you want. This will show your flexibility which is more likely to result in an agreement.

When deciding who will see the children on what days over Christmas it is good to consider what the children will want. Will children really want to have their time spent playing with their new toys cut short? If the days of Christmas can be split between you i.e. Christmas Day with one parent and Boxing Day with the other then children will have the added enjoyment of two Christmas Days and two lots of presents as opposed to one day being cut short.

The family unit does not only consist of Mum and Dad there are a lot of other family members to consider as well. It is important for children to spend time and have continued contact with extended family and take part in family traditions and celebrations on both sides. A useful tip is to organise in advance when special family celebrations will take place and then take a fair approach when discussing them between you.

It is always best to agree arrangements between you and you can always work on the basis that next year the contact days can be reversed. The children should come first at all times and it is only one day out of 365. An agreement can easily be reached for one day of the year if parents work together and communicate.

For further information about any of the issues raised here or any other Family related queries, please contact our Family Team on 01206 835320 or 01206 578282 or email FamilyLaw@fjg.co.uk.



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