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Accident victims sometimes ‘pressurised into settling’ by insurers

Victims of road accidents are sometimes subjected to high pressure tactics by insurance companies to make them settle for reduced levels of compensation, according to the Association of Personal Injury Lawyers (APIL).

APIL president Amanda Stevens highlighted one case where a woman was offered £1,000 immediately after being injured in an accident if she would settle there and then without consulting a lawyer.

When she declined, the offer was increased to £1,700 but she still refused. She then consulted a solicitor who made a proper assessment of her case. As a result, the woman later received ten times the amount she was first offered by the insurance company.

As Ms Stevens points out, these are not isolated incidents but everyday occurrences throughout the country. She said accident victims are being let down by “weak financial regulation of certain insurance activities” and accused the Financial Services Authority of turning a blind eye to their plight.

Anyone who has been injured as a result of someone else’s negligence is entitled to claim compensation. Insurers rarely offer the full value of the claim at the outset so if you are injured, it is vital to consult a solicitor to ensure your claim is handled correctly and you get the full level of compensation to which you are entitled.

Please contact Martin Crossley if you would like more information.

Cost of registering Lasting Powers of Attorney is reduced

The cost of registering Lasting Powers of Attorney (LPA) has been reduced.

The announcement by the Office of the Public Guardian, which administers the registration process, follows a public consultation on the implementation of the Mental Capacity Act 2005.

LPAs were one of the main provisions introduced by the Act in 2007.

The changes, which came into effect on 1st April, mean that the cost of registration is reduced from £150 to £120 and the forms and accompanying documentation will use plainer language.

LPAs have proved very popular since they replaced the old Enduring Powers of Attorney (EPA) because they offer more choice to people who want to prepare for a time when they may lose some of their mental capacity.

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

In the first 12 months after being introduced, the number of people registering LPAs was three times higher than the figure for EPAs in previous years.

The Public Guardian, Martin John, said: "We have listened to people's concerns about the length and complexity of the forms and we have responded. For example, we have reduced the risk of errors through improved design and have included guidance to make completion simpler.

"Reducing the LPA registration fee demonstrates our commitment to provide a cost-effective service and to encourage take up of such an important safeguard. We aim to deliver a service that is easy to understand and use, and improving the forms is a key step in that direction."

The Office of the Public Guardian needs to register LPAs before they can be used. Registration is followed by a 42-day statutory waiting period to allow people to raise objections to the registration. This waiting period is one of the safeguards built into the process to ensure that the LPA has been drawn up properly and is not fraudulent.

People who have registered LPAs say it provides peace of mind to know that arrangements are in place to protect their interests should they lose the capacity to do so themselves as they get older.

Please contact Christopher Jackson if you would like more information about Lasting Powers of Attorney.

House owner 'not entitled' to tear down fence that encroached on her land

The danger of taking the law into your own hands without getting legal advice was highlighted in a recent case involving a dispute between two neighbours.

There had been a longstanding boundary dispute between them which was eventually settled by a court order.

One of the homeowners then laid a concrete foundation to build a fence along the boundary. Unfortunately, it encroached a few inches into the neighbour's property although the fence itself lay exactly on the border.

Later, the fence moved slightly so that it too encroached a few inches into the neighbour's property. The neighbour declined to take any further legal steps but simply removed the fence posts and wire meshing.

The fence owners then began legal proceedings for damages. The judge ruled that the slight encroachment was not sufficient justification for the neighbour to take down the fence and so she should have to pay damages.

That ruling has now been upheld by the Court of Appeal which held that there was no emergency or urgent need that would justify the removal of the fence.

It is not uncommon for neighbour disputes to get a little out of hand so that the costs and energy expended in fighting the case are out of all proportion to the seriousness of the offence.

It is usually better for disputes to be resolved amicably but if this is not possible then both sides should seek legal advice before attitudes begin to harden.

Clarification of the legal position may help resolve the problem right at the outset. If there is still a disagreement then a solicitor may be able to help arrange mediation so that a settlement can be reached that is fair to both sides. This approach is usually far less stressful than going to court and it may help you to maintain a good working relationship with your neighbour. This is very important as you may have to live alongside each other for many years to come.

If agreement still can't be reached then litigation may become necessary. It is then even more important to get sound legal advice so that the dispute doesn't escalate to a point where the costs involved are out of proportion to the value of the claim.

Please contact Justin Birch if you would like more information.

Divorcing parents 'must put their children's needs first'

The charity Childline has urged divorcing parents to put the needs of their children first however difficult the situation may become as the marriage comes to an end.

The first few months of the year invariably see an increase in divorce inquiries from couples who have reached breaking point over the Christmas and New Year holiday period. It's feared that pressures brought on by the recession could put more relationships under strain.

Childline says it has had numerous calls from children whose families are in turmoil. They tell counsellors that they are frightened by arguments between their parents and feel as though they are being made to choose between mum and dad. Some even feel the marriage break-up is their fault.

Divorce lawyers often come across these situations and will always try to advise parents against actions that may put extra pressure on their children. The first thing parents must do is put their emotions aside and be prepared to compromise to find a fair and workable solution.

Be prepared to negotiate over matters such as where the children should live and the amount of contact they will have with each of you. Make sure you get good legal advice. This will help you reach a settlement which is good for your children and fair to both of you.

If negotiations become difficult then mediation may help. This is where a trained mediator like a solicitor acts as a broker and helps smooth the way to an amicable agreement. Arrangements made in this way are less stressful and more likely to stay in place because they are voluntary.

If a negotiated settlement proves impossible then it may be necessary to go to court. It's important to realise, however, that the courts place the needs of the children ahead of what parents may consider to be their rights. In fact, the law thinks primarily in terms of parental responsibility rather than parental rights.

Before making any decision, the court will work through a welfare checklist to determine what is best for the child. It will look at age and background, emotional needs, educational requirements and any other matters it considers relevant. These factors are likely to weigh more heavily than any personal preferences put forward by mum or dad as to where the child should live or how much time they should spend with each parent.

Once a court makes a decision then both parents must abide by it. Parents who try to thwart a court order can find that they have their contact rights reduced.

Thankfully, it should never come to that if both parents behave reasonably and follow the correct legal procedures. For further information, please contact Patrick Troy.

Stricter rules on Home Information Packs come into force

Home Information Packs (HIPs) now have to be available as soon as the seller puts a property on the market.

New regulations mean that sellers must also include a Property Information Questionnaire (PIQ) covering areas such as the property's service charges, flood risk information, structural damage, gas and electricity safety and parking arrangements.

The PIQ is in addition to the other required documents such as the Energy Performance Certificate rating the property's energy efficiency, evidence of title, the results of standard searches and the terms of sale.

Until now, sellers were allowed to request and pay for a HIP and then start marketing their property for up to 28 days before the HIP became available. The new regulations, effective from 6th April, mean that HIPs now have to be available from the outset and they must contain a PIQ.

The PIQ is also required for leasehold properties.

Please contact Christopher Jackson or Ian Armstrong if you would like more information about HIPs or any aspect of buying and selling property.