

## June 2009

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### **Accident victim receives £1.2m compensation for her injuries**

A woman motorcyclist who suffered multiple injuries in a road accident is to receive £1.2m in compensation.

The woman, who was 43 at the time of the accident and worked as an electronics assembler, was riding her motorcycle when she was hit by a car which turned into her path. She suffered multiple injuries including fractures of her wrist, leg and pelvis. She later developed chronic depressive adjustment disorder.

As a result of her injuries she will never be able to work again. She has lost her independence and will need regular care for the rest of her life. Her husband is chronically ill himself and so all her care and assistance will have to be provided commercially.

The driver of the car admitted liability and so the woman is now to receive £1.2m in an out of court settlement. The money is to compensate for her pain and suffering, her loss of earnings and to help pay for the care that she will need for the rest of her life.

### **Some estate agents 'overcharging on Home Information Packs'**

A Channel 4 News investigation has found that some estate agents have been adding more than £100 to the cost of a Home Information Pack (HIP).

The researchers found that many agents hire outside providers to supply the HIP and then add on a commission fee for themselves when billing the client. The Law Society has now urged house sellers to ensure that the cost of their HIP isn't being inflated by hidden charges or commission fees.

Law Society President Paul Marsh said: "The cost of the HIP charged to the home seller by the estate agent could be much higher than necessary and more than the agent actually pays the HIP provider. Because of these hidden referral fees the estate agent is overcharging the seller and making a secret profit.

"Sellers should ask for details of the exact costs to discover if the agent is charging them more than they should be, and more than the HIP actually cost the estate agent. They should also ask

if the estate agent is receiving a hidden commission from the HIP provider, which would mean the estate agents are keeping part of the cost themselves.

“If the agent is paying £300 to the HIP provider and then charging their client £400 the client is paying an extra £100 unnecessarily. With the other costs involved in selling, these added costs are unwanted extras.

“If sellers do find their agent is charging extra for their HIP they should ask their solicitor if they can provide a HIP instead, as solicitors are required to be fully open with their clients about fees. The added benefit of using a solicitor is that they are all strictly regulated and required to follow stringent rules, unlike estate agents.”

Please contact us if you would like more information about Home Information Packs.

## **Rules relating to trusts are to be modernised**

A new Bill to modernise the rules relating to trusts has been introduced in the House of Lords.

The Perpetuities and Accumulations Bill will modernise the rules which restrict how long an owner can control the future ownership of property (perpetuities) and how long trustees can add income to capital (accumulations). The rules are designed to prevent people locking wealth away indefinitely.

A spokesman for the Ministry of Justice said: “The Bill will restrict the rule against perpetuities to trusts and simplify its operation by introducing a single 125-year period. It will remove restrictions on accumulations except for charities, which will be subject to a 21-year limit.

“Other than a limited right to opt in to a 100-year period, the changes will not affect pre-existing trusts or wills.”

The Bill will implement recommendations put forward by the Law Commission in a report published in 1998.

Sir Terence Etherton, chairman of the Law Commission, welcomed the Bill and said reform of this ancient area of law is long overdue. He added: “The effects of the Bill will be felt particularly in commercial transactions, which will be freed from the unnecessary complexity added by these rules.”

Please contact us if you would like more information about trusts.

## **Record damages for woman in ‘malicious and insulting’ ageism case**

A woman who was passed over for a new post with the health service because she was considered to be too old has been awarded record damages.

Linda Sturdy was 56 when she was discriminated against by Leeds Teaching Hospitals NHS Trust in 2006. The job she applied for running breast screening services was given to a colleague who is 13 years younger than her.

An employment tribunal has now awarded Mrs Sturdy £33,500 damages for injury to her feelings and £5,700 in aggravated damages. This is the highest ever award for a case of this kind.

Giving the tribunal ruling, Judge Christine Lee said the injury to Mrs Sturdy's feelings was "about as serious as it gets". She said Mrs Sturdy's managers had failed to carry out an unbiased investigation when she complained of age discrimination and had behaved towards her in a way that was "high handed, malicious, insulting and oppressive".

The case was closely monitored by Age Concern. A spokesman said: "Age discrimination in the workplace is outlawed and employers should not get away with pushing aside older jobseekers' CVs just because of their age. Instead of valuing their lifetime of skills and experience, employers are rejecting older workers often with the glib excuse that they are over qualified."

Please contact us if you would like more information about age regulations or any form of discrimination in the workplace.

## **New Bill intended to improve protection for cohabiting couples**

A new Bill designed to provide more protection for cohabiting couples is now making its way through Parliament.

The Cohabitation Bill has the backing of the family lawyers' association, Resolution. It is being put forward as a Private Members' Bill by Lord Lester of Herne Hill.

It is uncertain whether or not the Bill will ever become law but it is at least highlighting the problems that couples could face if their relationships break up. Unfortunately, many people are confused about their legal rights. Recent research showed that more than 50% of people believe there is such a thing as common law marriage giving cohabiting couples the same legal protection as married couples.

This is not the case. Cohabiting couples have very few automatic rights and this can cause numerous problems.

For example, if your home is in your ex-partner's name then you will have no automatic right to stay there if you are asked to leave. Nor will you automatically be entitled to a financial share in the house, even if you helped to pay for it over several years. Your former partner won't have to pay maintenance for you, even if you gave up your job to look after the children while he or she went out to build a lucrative career.

If you don't already have a will then you should draw one up as soon as possible. Otherwise your estate could pass to your relatives rather than your partner.

If the Cohabitation Bill does become law it will provide much needed protection for cohabiting couples but one has to remember that most private members' bills fail to make it on to the statute book.

It means that until the law does change, cohabiting couples who don't wish to get married have little choice but to provide their own legal protection.

Many couples protect themselves by drawing up living together agreements which state in advance how their assets should be divided if their relationship fails.

Some people may feel embarrassed at first to be making such legal arrangements as it seems that they don't fully trust each other. However, such concerns soon disappear and most couples end up feeling their relationship is stronger because both partners feel more secure.

Please contact us if you would like more information.

