

WELCOME

Welcome to Spotlight, Comerton & Hill's business newsletter. Its aim is to update you on breaking legal issues that might significantly impact your business, both now and in the future.

Our recent client satisfaction survey found that the most important issues for many of you, when assessing legal services were:

1. degree of specialist expertise and
2. responding to agreed deadlines.

We agree. Which is why we are continuing to make this ethos part of our everyday business. Providing timely, proactive and relevant legal advice is the cornerstone of our culture, and we hope you benefit from these regular legal updates.

Dan Fitzpatrick, Partner



HANDS-FREE MOBILE KITS - do you know your rights?

If you are an employer and your employees use mobile phones for work-related purposes, you need to be aware of the consequences of the new legislation banning the use of mobile phones while driving.

There are a number of steps you should take to determine how best to adopt the best policy for your particular business.

1. Primarily, you have to consider the **commercial effects of enforcing a complete ban** on use while driving. Do you have a large salesforce out on the roads, where customer calls may be crucial to the buying process? How would it affect your customer service policy if calls were not returned promptly or sales staff contactable easily?
2. If you do decide on a complete ban, you need to decide how **exactly you might enforce this** in your workplace. Remember, your decision on this may have a direct effect on your insurance premiums. It is important, therefore to have your policies and contracts approved legally.
3. If you decide against a complete ban, you may consider **offering your employees hands-free kits**. If you provide a hands-free kit to an employee but it remains your property no tax charge arises.

4. Furthermore, if you provide an employee with a hands-free mobile phone kit and **pay for it to be fitted in the employees' own cars**, no benefit accrues if you retain ownership.

But if you purchase the kit then pass ownership to the employee, a benefit may arise (depending on the terms of transfer). If the employee buys the kit and retains ownership but you reimburse them cost, the reimbursement is treated as earnings.

5. Finally, if you **fit a hands-free mobile phone kit to a company car** there are no benefit implications because mobile phones are not accessories for tax purposes. There are also no benefit implications where an employee buys the kit and fits it with the employer's permission. But if, as an employer, you reimburse the cost of a kit of which the employee retains ownership, the reimbursement is again treated as earnings.

This can be a significant topic for employers, where ignorance of the legal implications can cost your business dearly. To ensure you are fully informed of the options that could save your business money, call Dan Fitzpatrick, on 9023 4629 or email solicitors@comerton.co.uk

EMPLOYMENT CASES UP BY 50%

- How to Minimise Your Own Risks

If you are an employer, the chances are less than one in three that you will come up against an employment tribunal some time soon. This is according to UK statistics published by the Engineering Employers Federation in March 2004. The EEF reported that last year alone the number of cases handled on its behalf by its 6000 members increased to 2206 cases, an overall increase of 50% when compared to figures from 1998.

What this means to you is:

- significant management time spent on the necessary litigation procedures
- increased legal fees
- decreased business efficiency due to employee down time and consequent effects on employee morale, not to mention
- the potential effects of bad publicity to your business.

This is not unique to the engineering industry either. There is a rising tide of employment litigation across all sectors, and in terms of discrimination litigation, Northern Ireland business is perhaps more vulnerable than the rest of the UK. What's more, employees are becoming more commercially astute. Ultimately, this all leads to a plethora of tribunals and litigation cases, all of which are of very little financial value in terms of victories. Of the 73% of cases that reach a hearing, over 78% of them were valued at under £5500.

How does that compare to the time and money spent by each company to reach the hearing alone?

Your solution

In order to avoid the commercially unhealthy path of employment litigation, the message is clear - both employers and employees should aim to resolve any disputes in the workplace. However, this is easier said than done and there are some simple steps you can take today which may help minimise your risk of claims.

- **contracts** - well drafted employee terms and conditions of employment can help clarify any prospective areas of uncertainty. Typical areas of difficulty include temporary staff, maternity/ paternity arrangements, childcare options, and equality.
- **breaking legislation** - employers that are kept aware of up-to-the-minute information on relevant areas of employee law can help ensure that any potential pitfalls are avoided before any action is taken
- **communications** - ensure employees are informed of any changes in company terms and conditions

Employment legislation can be a complex and extensive area of law. For up to the minute advice on how you can effectively handle your outstanding claims and take steps to reduce your future claims, contact Dan Fitzpatrick today on 9023 4629 or email solicitors@comerton.co.uk to arrange your **free consultation**.



THE ENTREPRENEUR

7 Steps to being a Successful Landlord

PART 1: RESIDENTIAL LANDLORDS

If you are a Landlord, you are no doubt aware that letting a property demands a basic knowledge of your obligations, but more often than not, is a minefield of complex rules and regulations. What's more, the law is constantly in a state of change, so keeping yourself up to date can in itself be a demanding role.

If you let your business agreement become anything less than watertight, the consequences can be substantial.

Brian White offers existing clients a unique resource that ensures you are kept abreast of the issues that are of relevance to you, thereby allowing you to spend more of your time developing your business.

Here he outlines the top seven tips to promote successful landlording for residential tenancies.

1. Have a plan!

Depending on your individual circumstances, you can expect varying degrees of problems, management time spent, and regulations. The first step of any good plan must be research:

- How much time do you have to devote to your lettings or do you need to pay someone to do this for you? If it is the former, distance may be a significant issue.
- Include financial projections in your plan, especially if you are using a loan, or mortgage finance.
- You may also need certain permissions for building or planning, as well as approvals from your mortgage company, insurers and landlords/freeholders.
- Master the basic letting rules and regulations

2. Have a comprehensive Application Form

A tenant's application form is crucial and the most important document after the lease agreement. It is a permanent record of the tenant's declaration (regarding identity, accommodation and employment histories, income status, references, and personal details) and understanding of the property to be let, the tenancy and basic terms, likely costs and expenses to be paid and the rent and deposit required.

The form allows you to screen your tenants carefully and also provides valuable evidence for court action, if necessary.

3. Always have a Written Agreement

Never, ever, under any circumstances allow a tenant into premises (handing over keys) without the signing of an agreement in front of a witness and paying the first

month's rent and security deposit. Good agreements are easy to understand, up-to-date with current legislation and have taken into account almost all eventualities. Have one prepared by a solicitor who has extensive experience in this area of the law.

4. Be Safety Conscious - you are responsible

Safety is potentially one of the greatest risks a landlord faces and there are severe penalties for non-compliance - both criminal sanctions and civil law damages apply. Landlords therefore have a serious obligation to provide safe premises, installations and appliances for their tenants. They must also ensure safe use of equipment by providing clear operating instructions.

5. Bear in mind the Discrimination Laws

You are not allowed to discriminate (and nor would any reasonable landlord want to) on the basis of race, religion, gender or disability etc. However, you are allowed to discriminate on the merits of the individual/s as qualifying tenants.

6. Put Everything in Writing

Have a file for every property & every tenant. It's important to have this information on file, particularly for Inland Revenue purposes. All files should be kept for several years after the property is sold or the tenants have left. The files should include everything to do with that property/tenant.

7. Act Quickly if Problems Arise

If problems arise, take action immediately so that tenants know you mean business. For example:

- If rent payments are missed - find out why and set out a course of action. Put it in writing.
- If your tenants are causing problems with the neighbours - again, act quickly so that they can see you are doing something about it. You may have to take it up with the local authority and possession proceedings may be in order.

Free Strategic Legal Planning Review

To make sure you are aware of the most up to date landlord and tenant issues and regulation concerning residential lettings, take advantage of our Landlord Planning Review - a one hour consultation with our resident expert in the field, Brian White. P. 028 9023 4629



How You can Increase your Cash Flow within weeks

Whether your business is a start-up or an established multinational company, cash flow is vital to the future of your business. Dun & Bradstreet reports that over 10,000 UK companies fail each year due to late payments. Even established businesses can lose out on thousands of pounds of profits through a poor debt management system which allows bad debt to lie dormant for months.

The Benefits of an Efficient Debt Management Solution

Outsourcing an effective debt management service can not only *improve your cash-flow immediately* but the cumulative effect will ultimately add to your bottom line. What's more, by outsourcing this service, you can be sure your monies are being collected without more of your management time being spent on chasing your bad debt.

A Fast, Effective Solution to Collect Money that is Owed to you

Civil law provides a simple supporting procedure that helps you recover what is owed to you.

With over 35 years expertise in this area of law, you can quickly and efficiently benefit from practical systems that aim to recover your debt.

The leading authority on law practices, Chambers UK 2003-2004 ranks Comerton & Hill Solicitors number one for Debt Recovery Services in Northern Ireland, describing our service as "absolutely first rate".

We act quickly, efficiently and professionally to recover more of what is owed to you. In addition, you won't get that feeling of losing control over the process, as there are agreed steps in place to ensure you agree each phase before we proceed with any action.

You can implement these changes TODAY

Why not try out the difference this can make to your business for a trial period of 4 months? Phone Mervyn White today to arrange a mutually suitable time for us to discuss your particular needs, free of charge, and with no obligation.

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Careful inheritance tax planning and drafting of a will ensures that you pass as much of your wealth as possible to your loved ones when you die. And you need to start planning before you are 45...

American author and statesman, Benjamin Franklin is reported to have said 'In this world nothing can be said to be certain, except death and taxes'. You can't do anything about avoiding the former, but let us help you avoid giving to the Taxman after your death!

Inheritance tax (IHT) is the tax 'your estate' pays when you die, as well as certain lifetime gifts. Your estate is, in its simplest terms, everything you own minus everything you owe.

In this year's Budget, the Chancellor brought in measures that mean a further 30,000 estates a year may fall into the reporting regime for IHT.

So IHT is no longer only a worry for the seriously wealthy. It is now an issue that affects all those who have an estate over the 2004-2005 threshold of £263,000.

Remember, if your spouse dies your mortgage is often cleared leaving you with the total value of your property plus any savings, the value of any material goods, etc. This can push the value of many individuals estates over the threshold for IHT.

Unless you plan carefully, you may have to pay 40% tax on the excess.

Subject to certain exemptions and reliefs, the tax is levied at a flat rate of 40% on anything above the threshold in the year you die. For example, if your net estate is found to be worth £275,000 then the IHT payable would be 40% of £12,000 - or £4,800. This is money that could be passed on to your family and friends, rather than the taxman.

The main exemptions and reliefs

Careful tax planning can reduce and sometimes even eliminate a potential IHT bill.

The main options include:

- Gifts between husband and wife
- Lifetime gifts to other parties
- Trusts

Tips to help ensure your hard-earned assets pass to your loved ones.

1. Make a will and keep it updated after any significant events or changes in circumstances
2. Work out your assets and review these every few years
3. Take advantage of any allowances/reliefs. A husband and wife are each entitled to an allowance of £263,000 of value before IHT is payable.
4. Consider gifts if your estate is over the threshold
5. Think about insurance, if you are still liable
6. If you want to create a Trust, seek professional advice

IHT can be a minefield. To secure your peace of mind, and provide for your loved ones in the future, we can help you ensure that all is being done to make sure your planning is done professionally and without error.

Contact Brian White, our partner specialising in this area of private law to discuss which of our tailored products can help you.

Find out for yourself: the reasons why clients are loyal to their legal advisors....

Comerton & Hill Solicitors are currently in the process of implementing an independent client satisfaction review. Results to date show that:

1. 83% of our corporate clients have been with us for over 10 years....

So if you are a client, thank you for your continued support and loyalty.

If you are not a client, why not find out why our clients are so loyal by taking advantage of a free consultation meeting with one of our Partners.

2. 92% of our clients would recommend us to others...

The chief way our business grows is by way of referrals, so if you are happy with the service you have received at Comerton & Hill, feel free to recommend us to your business contacts, friends and family.

WHAT OUR CLIENTS SAY...

"Comerton & Hill have been representing Maxol's legal interests in NI for over 2 decades and have provided a professional and commercial approach to a wide range of legal situations and requirements in the fuel distribution and retail business. We see Comerton & Hill as one of our main business advisors and a fundamental part of our business requirements going forward in helping Maxol meet the challenges in the fuels market and compliance with new legal directives from Europe and at home".

Brian Donaldson
General Manager - Marketing and Retail, The Maxol Group

"Comerton and Hill deliver results in a direct, simple and professional manner. Their approach to the service offered to their clients is to be highly recommended."

Justin McCormick
ABNA Ltd

"Comerton & Hill are helpful and efficient, and keep us fully informed of the progress on all our outstanding debts without burdening us with unnecessary detail. From years of experience, we know we can rely on them to help us recover more of what is owed to us".

Terry Ace - Ormeau Credit Union

Comerton & Hill Solicitors: AT A GLANCE

- An established and independent law firm specialising in Northern Ireland corporate legislation
- Over 35 years experience advising local, regional and international companies, and professional advisors on all areas of corporate law
- An extensive local network of high-quality legal and corporate contacts throughout Northern Ireland, Southern Ireland and the UK
- Act for a number of Northern Ireland's top companies including HSBC, NIB (Bank of Ireland), Maxol & Lombard North Central (NatWest)
- ISO 9001 accredited
- Home Charter Scheme member

SERVICES OFFERED

- Insolvency & Bankruptcy
- Employment Law
- Landlord & Tenant law
- Corporate Legal work, including shares and corporate securities
- Probate
- Personal Injury Litigation