

Make sure you're well covered...

If you're heading off for some winter sun, you need to do much more than make sure you're well protected from the rays.

Personal Injury specialist Riekje Sefton is recommending that holidaymakers check their insurance policies carefully to ensure they have legal expenses insurance to cover legal costs if they are injured in an accident which is not their fault. Otherwise, she warns, they run the risk of being left with big bills if they have an accident abroad.

Riekje says, "There are a growing number of budget insurance policies which will only cover emergency medical treatment. For instance, if you are knocked down by a car on holiday and seriously injured, there will be lots of other expenses like extra care and loss of income. If you then have to sue a foreign national, there is no guarantee that your opponent will pay your costs, even if you win your case.



Riekje Sefton

Therefore, it's worth spending a few extra pounds on the insurance and making sure you have got legal expenses cover."

Good insurance isn't just for those on skiing or other activity holidays – according to the Foreign & Commonwealth Office, injuries abroad are most likely to be sustained on the roads. Beaches and hotels are also common locations for accidents.

Multilingual Riekje Sefton has been a legal executive with Burnetts for over 20 years. She had originally qualified as a doctor in Holland and now specialises in personal injury claims for people with catastrophic injuries including head and spinal. She is a former Chair of Headway North Cumbria.

Redress for Bad Advice

Have you been let down by a professional?

It can be difficult to know where to turn when you've been given bad advice but luckily Burnetts' Dispute Resolution department has an expert in claims against professionals.



Partner Patricia Hall has experience in plenty of heavyweight cases like claims of negligence against accountants, solicitors and surveyors. She is one of only three solicitors in Cumbria who is a member of the Professional Negligence Lawyers Association (PNLA).

Call Patricia on 01228 552222 for an informal and confidential chat about a dispute with another professional.

www.sinclair-design.co.uk 01539 737913

A biannual update for Burnetts' private clients - December 2006

Enduring Power of Attorney scrapped



From April 2007, the Enduring Power of Attorney will be scrapped and replaced with a two part Lasting Power of Attorney which, says Burnetts' Trusts expert, will be more complex and more expensive.

Partner Martyn Wrightson is joining other financial and legal experts in recommending that now is a good time to sort out your affairs.

The current Enduring Power of Attorney (EPA) is a legal document that enables someone to appoint one or more persons (attorney(s)) to manage their financial affairs and property, either now or in the future if they lose the ability to manage their own affairs. It can come into force at any time and must be registered through the Court of Protection at a cost of £120. EPAs drawn up before April 2007 will continue to be valid.

The new Lasting Power of Attorney (LPA) will come in two forms. The first is completely new and covers decisions over health and welfare. The second deals with property and money as did the EPA.

The LPA will only be valid once it is registered with the new Office of the Public Guardian and a fee paid. The Department of Constitutional Affairs (who will run the Office of the Public Guardian) is currently suggesting a fee of £150 for each part of the LPA.

Martyn said, "The new system will be more complicated and costly. The current Enduring Power of Attorney will still be the best option for a number of clients, so, in some cases, I am advising that an EPA is written now before the opportunity to do so is removed."

The changes have come about through the introduction of the Mental Capacity Act 2005 which aims to give greater protection to vulnerable adults, by monitoring the actions of attorneys and separating responsibility for finances and healthcare.

For further information, contact Martyn Wrightson or Gill Box.

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Burnetts is Cumbria's top firm!



Burnetts is Cumbria's highest ranking solicitors' practice in the latest edition of The Legal 500, the annual guide to UK law firms and one of only two firms in the county to make the prestigious list.

As well as ranking firms according to the number of legal advisers, The Legal 500 also includes thoroughly researched commendations of firms and individuals: more than half of Burnetts' partners had been recommended to the authors by their clients and peers.

Vicki Jagger, Head of the Medical Law department was singled out for her, "strong reputation for birth trauma cases". Meanwhile, Burnetts' Agricultural department was praised for its "high-quality advice". Patricia Hall and Michael Cousins were also highlighted. In the firm's commercial division John Priddle, John Noctor, Vaughan Jones and Senior Partner, John Morris were all praised.

Full details of rankings and recommendations can be found at www.legal500.com.

Free Legal Update for Voluntary Organisations

More than 40 advisers from Cumbria's healthcare and voluntary sectors gathered at the Westmorland Hotel, Tebay in November for a special free seminar called The Vulnerable and The Law.

Hosted by Burnetts' Medical Law team, the seminar included presentations on the forthcoming changes to Enduring Powers of Attorney (see p1) and a case study on claims arising from negligent nursing care. Barrister, Dr Emma Heap travelled from Hailsham Chambers in

London to give an insight into community care law.

Vicki Jagger, Head of Medical Law said, "This annual seminar brings together like-minded people and creates an environment to share up-to-date information. The theme of this year's event was community care law and its impact on vulnerable adults and the elderly. We all see clients with concerns about the care of their elderly relatives so this seminar was a really worthwhile opportunity to share experiences."

To be kept informed of similar events, contact Angela Huck on 01228 552222 or at ash@burnetts.co.uk

"This seminar was a really worthwhile opportunity to share experiences."

Vicki Jagger



Martyn Wrightson

Business booming for family law team



Douglas Claxton

Burnetts' Family Law department has seen its busiest year ever and has recruited a new solicitor to help advise clients on their relationship and family issues.

Stephen Cox, 27, joins Burnetts from Camden family law specialists, Hodge, Jones and Allen where he worked on family cases involving injunctions, restraining orders, divorce and separation in liaison with the Domestic Violence Forum in Kentish Town. Stephen also has an interest in thorny cohabitation cases, especially where the ownership of property is in dispute following a break up.

He said, "Although I grew up in London, I knew I wouldn't stay there for the long-term future partly because my wife's family are from Cumbria. I had heard of Burnetts and felt it was the right sort of



Stephen Cox

firm for me. I'm looking forward to getting involved with local advice organisations and developing my experience in child care law."

In his free time, Stephen enjoys walking, tennis and music. Having left behind Crystal Palace, he is now looking forward to seeing Carlisle United matches.

Douglas Claxton, Partner at Burnetts said, "We have seen a record number of new instructions, even at traditionally quiet times like August. New legislation like the Civil Partnerships Act,

our increasing involvement in co-habitation issues and a higher profile generally have all helped to bring us more clients. We needed an experienced family lawyer to hit the ground running so Stephen will be a real asset to our team. I'm sure clients will find him reliable, expert and sensitive."

Living Together – You've Lots to Lose



Marriage may be enjoying a come back, but around a quarter of adults in the UK are still co-habiting...

He said, "The whole idea of common-law marriage is a myth – co-habitants do not have the same rights as a married couple or a gay couple in a registered civil partnership."

For some, co-habiting (ie living together as a couple) is a prelude to getting married. For others co-habitation is an alternative to marriage perhaps where one or both of the partners have been married before or for younger couples where marriage is seen as too formal a commitment.

Not all co-habitants are unmarried by choice: some may be in a partnership with someone who refuses to or is unable to marry.

What everyone should know before they move in together is that co-habiting without a formal arrangement like a marriage limits your rights. If the relationship breaks up or one of you dies, your co-habiting status can have a profound impact on your home, your financial situation and even your rights as a parent if you have children together.

Simon Mortimer is a Partner in Burnetts' Family Law department and deals increasingly with cases where co-habiting partners have separated.

Men and women are affected differently by their co-habitation status: women generally are more financially vulnerable, especially if they have taken time out of work to raise a family; an unmarried man may have no rights as a parent but can still be responsible to pay child maintenance.

Simon says, "A co-habitation agreement may not sound very romantic, but it will offer some protection if the relationship ends. This short document sets out any matters of potential disagreement usually before you move in together, describing how assets might be divided if the relationship ends. It can also include details of who will pay for what, as part of your living-together arrangements. It's also less costly than a legal wrangle in court to prove your rights to property or other assets."



Simon says....

Simon Mortimer

Simon has this advice if you're thinking of moving in together:

Moving into Your Partner's Home
Get your name put onto the deeds otherwise you are unlikely to have a share of the property, even if you've paid towards the mortgage or improvements. If the home is rented, ensure your name is also on your tenancy agreement. Otherwise you could be forced to leave your home if the relationship ends, regardless of how long you have lived there or if you have actually paid the rent.

Buying a Home Together
If you are buying a home together, you must ensure you are a legal owner, that is, your name is on the title deeds.

Children
Co-habitation issues are more complicated when children are involved so legal advice is especially important.

Domestic Violence
In cases of domestic violence, co-habitants can use the law in a similar way to married couples. As the victim, you may be able to stay in the family home while you sort out permanent living arrangements (even if your partner owns the house).

For further information about co-habiting contact Amy Fallows or Stephen Cox on 01228 552222.

FREE HELP SHEETS

Burnetts Family Team has produced two free Living Together advice sheets, available online from: <http://www.burnetts.co.uk/factsheets.asp>. One includes property-related advice while the other looks at issues with children.



Home Information Packs - latest news

Since the last issue of 'A Private Word', the government has made a significant change to the compulsory elements of the Home Information Pack.

The Home Information Pack (HIP) will now consist of Search Reports, Title Documents, copies of any planning consents and work guarantees as well as an Energy Performance Certificate. The Home Condition Report will now be a voluntary component.

The omission of a Home Condition Report will reduce the cost of the HIP significantly. It seems unlikely that any seller would voluntarily include such an item at the cost of several hundred pounds.



The Government is also reviewing the current requirement that the pack must be complete prior to marketing.

Burnetts' experts still hold the view that the introduction of HIPs will bring uncertainty into the housing market. While the exact price of the HIP is still unknown, there is no doubt that HIPs will increase costs to the house seller.

For further information, contact Burnetts' conveyancing team on 01228 552222.

Fact sheets FREE online

Burnetts unveiled its new website back in September.

As well as including information on the latest news and an electronic version of this newsletter, there are also plenty of free fact sheets and articles covering issues like resolving disputes, dealing with family problems and inheritance planning for farmers.

To find out more visit www.burnetts.co.uk.

