

# lindsays *life*

Issue 11



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Divorce and Separation  
Housing and Letting  
Powers of Attorney and Guardianship  
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Managing a Family Business  
Renewable Energy  
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Technology and IT



the *life* of this magazine

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Welcome to the latest issue of *Lindsays life*.

This is the first issue of the magazine since I succeeded my colleague David Reith as Chairman of Lindsays earlier this year, and I am delighted to have the opportunity to introduce myself. I look forward to working with my colleagues to deliver high-quality services to our clients.

The topics we cover in this issue range from personal injury payouts, to how to plan for your retirement, to discussions about how to deal with disputes over Wills, or relocating your children after a relationship breakdown. We also alert you to relevant new developments if you are a landlord or a ‘person with significant control’ over a business.

One thing that’s notable across several articles in this issue is the overlap between the legal needs of individuals and those of businesses. Whilst these are treated as separate fields by many law firms, the reality of people’s lives is that the two areas are often intertwined.

For example, as illustrated in the article on page 12, setting up a Power of Attorney for a small business owner requires an understanding not just of corporate law but also of the client’s personal relationships. And on page 11, we show how farming partnerships should always take family dynamics into account.

Lindsays’ longstanding relationships with many clients mean we are highly experienced at dealing with the crossover of corporate and private client needs, and we hope it is useful to bring these topics to your attention.

Other news in this issue includes four new trainees joining the Lindsays team – an investment in talented young people as well as in the future of Lindsays. We also introduce a number of new partners and staff.

We very much hope you enjoy this issue of *Lindsays life*.



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02 Four things to do before you retire – *or sooner!*



03 Property: Strong demand in *Tayside* / Premium prices in *Edinburgh*



04 The changing face of the *family unit*



05 Is it time to check the pulse of your *charity*?



06 Avoid a *Will dispute* turning into a fight



07 Personal injury payouts and the *ticking clock*



08 Which club will have the *most athletes* cross the finishing line in 2017?



10 Our proud support for Scotland's *passionate estate owners*



11 A tale of *two siblings*



12 Business owners and the *stitch* in time



13 *Coming soon* to a property near you / A new *abbreviation* for your checklist



14 Does the *shoe* policy fit?



15 A dream move or a *step too far*?



16 News: *Double success* at legal awards / Nurturing future *legal talent*



17 A warm welcome to our new staff



## Four things to do *before* you retire – *or sooner!*

The lead-up to retirement is a good time to put your paperwork in order. Even if you're not at this stage of life, it's never too early or late to protect you and your family by ensuring your legal affairs are up to date.

The approach to retirement is a time to make decisions about pension pots, retirement income and aspirations for holidays. It is also an ideal time to do other planning.

### 1 *Appoint a relative or friend as your attorney*

Some 40-50% of us will suffer a period of incapacity in our lives. But only around 10% of us have a Power of Attorney in place, appointing someone to manage our finances and welfare if we suffer incapacity or need some extra help. If we are in the other 90%, and lose the ability to look after our own affairs, our family or friends may face considerable problems in looking after us.

If you lose the ability to put a Power of Attorney in place, the alternative involves an application to the court, which is expensive, slow and could lead to family

disputes about who becomes guardian. Making a Power of Attorney will always be quicker, cheaper and allows you to retain control of your own affairs.

### 2 *Make a Will*

Writing a Will is not as exciting as planning your first post-retirement holiday, but you're better to be in the 40% who make a Will than the 60% who don't.

By having a Will you keep control of who inherits your estate and can protect young and vulnerable beneficiaries; if you die without a Will, the law will decide for you. The process for administering your estate will be more difficult for your executors, be more expensive and will take longer.

### 3 *Make an advance directive (also called a Living Will)*

In Scotland adults with capacity can influence or refuse medical treatment.

If you lose consciousness, you cannot make these choices.

An advance directive allows you to state your preferences for treatment or non-treatment in certain circumstances. This means that doctors, carers and family know your preferences and helps remove difficult decisions for family members or medical staff.

### 4 *Review your Inheritance Tax (IHT) position*

More and more of us have estates which could be subject to an IHT liability on our deaths. There are various planning methods which can be used to mitigate a potential IHT liability and these are most effective if implemented at an early stage. A pre-retirement IHT review, taking into account your own personal and financial circumstances, can help protect your family's wealth going forward.

We appreciate these steps are not the most exciting pre-retirement tasks. However, they are simple to undertake and will bring great benefits to you and your family and friends once completed. Perhaps when they are done, you can reward yourself by booking your first post-retirement holiday.

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## Strong demand for property in *Tayside*

There's a buoyant mood and sustained demand for property in Dundee and a number of hotspots around Tayside.

The property market in Tayside has been confident in 2016, with sellers enjoying higher prices and quicker sales, and low interest rates boosting buyer confidence.

Whilst property prices around other parts of the UK have seen wobbles around Brexit uncertainties, Tayside seems relatively unaffected. Any EU-related fears seem to be counterbalanced by local good news stories. For example, with the V&A development taking shape before our eyes, there's a confident mood around Tayside.

Also fuelling price rises has been a fall in the overall number of homes being advertised for sale. The reduced supply has led to more sellers setting closing dates, which tend to push prices higher. In general, properties are also selling quickly, giving sellers greater certainty about the funds available for their next purchase.

Our own figures and general figures for Tayside show that homes across most price ranges are selling well throughout Dundee, and there is strong demand for properties in Broughty Ferry and Monifieth.

As ever, our local market knowledge of Dundee and Tayside, and our experience in marketing properties at all levels can help to generate a sale at the right price and the right time.

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## Fast sales and premium prices in *Edinburgh*

2016 has been an excellent year to sell property in east central Scotland, and demand should continue.

In April-June the number of property sales in east central Scotland was down over 5% compared to the same time in 2015. But far from being cause for pessimism for anyone thinking about selling their home, these figures are very good news for sellers.

The decline in the number of house sales was due not to a lack of buyers, but a lack of properties being put on the market. As a result, those with a property to sell have enjoyed a sellers' market.

For example, the median selling time in east central Scotland was down to 20 days in April-June 2016, well over two weeks shorter than a year previously. And seven out of ten sellers achieved or exceeded their Home Report valuation – more than the previous year.

We're also seeing a higher number of people market their properties as 'offers over' (rather than fixed price), with closing dates being set, multiple bidders making offers, and premiums being paid. Activity is particularly buoyant in the mid-range market in houses and flats.

As ever, there's no guarantee that these trends will continue into 2017 – for example, Brexit anxieties have caused a few market jitters. But low interest rates, high local employment rates, and continuing strong demand for properties are likely to sustain a buoyant property market in Edinburgh and the surrounding areas.

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# The changing face of the *family unit*

Married, unmarried, same-sex, single – your friends may not judge your relationship status, but there could be legal implications for different family set-ups.

If you ask a class of schoolchildren to draw a picture of “my family”, the results are likely to be very different to the drawings of 25 years ago.

Alongside the traditional nuclear family of married father and mother and their children would probably be same-sex couples, single parents, step-families, and families living across different households.

“ *A few simple legal documents could protect your financial future.* ”

Societally, these different combinations are unremarkable, but in legal terms there can be differences in how relationships are considered. These may not seem significant to the family members, but in certain circumstances, they can become very important indeed.

The first of these circumstances is relationship breakdown and the ensuing financial arrangements.

The rights and obligations of cohabiting partners are very different to those of married couples or same-sex couples in a civil partnership. Therefore unmarried parents should not assume that, if it came to court, their financial positions would be similar to divorcing couples they know.

Another area of difference is when one partner dies without a Will. Again, it is marital status that is key here, not the gender of either partner. In cases of intestacy, surviving cohabitants should not presume their rights will be the same as those of a spouse, however long-standing their relationship.

Whatever the composition of your family, there are relatively easy ways to prevent such shocks, from writing Wills to making cohabitation or prenuptial agreements. This will help to identify whether there are any legal or financial pitfalls that could apply to your own family arrangements and head off any subsequent surprises or legal disputes.

As statistics on modern relationships show, not every love story has a happy ending. A few simple legal documents could protect your financial future and prevent a fairytale romance from turning into a long-running courtroom drama.



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## Scotland's modern families

- In 2015 more than 50% of births in Scotland were outside marriage or civil partnership.
- In Scotland, there were almost 27,000 marriages in 2015. Each year, there are approximately 10,000 divorces.
- In the last census in Scotland, almost a fifth of family households were one-parent families.

### Sources:

[www.nrscotland.gov.uk](http://www.nrscotland.gov.uk)  
[www.gov.scot](http://www.gov.scot)  
[www.parentingacrossscotland.org](http://www.parentingacrossscotland.org)



# Is it time to check the pulse of your *charity*?

With charities facing greater public scrutiny, as well as funding pressures, charity trustees should carry out a thorough health-check on a regular basis.

The Scottish public are wonderfully generous when it comes to charitable giving. Over nine out of ten of us have given time, money or goods to charities in the past year.

However, the same survey found that public trust in charities has decreased since 2014, for reasons such as media stories and fundraising practices.

This means Scotland's 180,000-plus charity trustees, or anyone else who has a leadership role in a charity, probably need to work harder than ever to ensure their organisation is structured and run effectively. This will help to sustain public confidence.

If you are involved in a charity, the following governance checklist may be helpful.

## *Constitutional issues*

- When did you last review your governance documents?
- Are you operating within the appropriate legal structure?

## *Board issues*

- Do you have the right number of people and mix of skills on your Board?
- Do you appraise your trustees' performance and contribution?
- Are meetings run in accordance with the charity's governance documents?

## *Finance and fundraising*

- Do you have a financial strategy matched to your objectives?
- Do you make the most of your potential tax reliefs, including Gift Aid?
- Are proper financial controls in place to prevent fraud?
- Do the trustees understand, and have they approved, the organisation's fundraising strategy?

## *Restructuring*

- Have you considered collaborating with other charities?
- Do you know other charities you could work, or merge, with?

## *Property issues*

- Are you making best use of your property, and have you reviewed the costs and benefits of how you hold property?
- Have you reviewed your property documents?

## *Employment issues*

- Do your employment contracts comply with current legislation?
- Do your contracts provide flexibility to make changes to roles, places of work etc.?

If you think that your charity's performance on any of these areas may need improvement, advice or training on governance may be useful.

“ *Charity trustees, or those in a leadership role probably need to work harder than ever to ensure their organisation is structured and run effectively.* ”

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# Avoid a *Will dispute* turning into a fight

Disputes over Wills and succession are increasingly common, but the family of the late Muhammad Ali may have something to teach us all.

When the great boxer Muhammad Ali died earlier this year, several tabloid papers rushed to predict in-family fighting over the division of his estate. In fact, his heirs (and their lawyers) appear to have resolved any such issues among themselves and there have been no follow-up stories of court actions.

This may have come as a disappointment to some journalists, but they can console themselves in the knowledge that in today's celebrity culture, there will be other headlines involving disputes over such Wills and inheritances.

Of course such disputes are not the sole preserve of the rich and famous, and the associated causes are numerous. Perhaps there has been a failure to have a Will properly prepared; a Will may have been lost; there may be the suspicion that an interested third party, possibly a relative or friend, may have unduly influenced the author of the Will; questions may arise as to the mental capacity of the author (perhaps on account of senility, dementia, or other mental health issues); or, as is becoming increasingly common, complications can arise through changes of family circumstances, such as separation or remarriage, with associated unexpected or unwanted consequences for the surviving family causing disharmony.

The above examples may call for particular legal remedies and solutions, all of which are best considered with the benefit of legal advice. Some may justify the raising of Court proceedings. Nonetheless, Muhammad Ali's family offer a worthwhile example that, where possible, attempts should be made to resolve such disputes through negotiation.

These type of disputes tend to involve family members, (a fertile ground for argument if ever there was!) which emphasises the need to seek advice quickly, preferably before such tensions escalate. This may achieve a swifter resolution, leading to the desirable outcome of preserving more of the estate to be distributed.

“ *Where possible, attempts should be made to resolve such disputes through negotiation.* ”

The other lesson of the inheritance sagas of the rich and famous – from the billionaire Howard Hughes to the musician Prince – is the importance of having a properly prepared Will in the first place. Equally important is the need to review and update it to take account of major life events, such as marriage, relationship breakdown, or the birth of children.

The tabloid press may love these high profile inheritance wrangles and family feuds, but for the rest of us we can enjoy our relative anonymity, safe in the knowledge that they can easily be avoided by following these simple recommendations.

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“ *Please get in touch to find out how easy it is to amend your Will...* ”





# Personal injury payouts and the *ticking clock*

A Personal Injury trust may have substantial benefits if you receive a lump sum. But there's a tight time limit if you want to maximise the advantages.

If you were to suffer a personal injury – perhaps at work, playing competitive sport, or in a road traffic accident – you might receive a lump sum payment, through damages, an insurance policy or even JustGiving donations.

If you were then unable to work as a result of the injury, you might also have expectations of receiving some State benefits or community care assistance. However, when calculating your entitlement, the Department for Work and Pensions (DWP) and local authority can take account of any payout you received after a short grace period.

This can come as a shock to injured parties, denting their assumptions about their future finances and income.

But if the injured party uses a Personal Injury (PI) trust to hold the payout, he or she may not have to forgo State benefits or community care payments. These trusts are still relatively underused, even among some personal injury lawyers, but they can be extremely useful.

Putting payments linked to a personal injury into a PI trust means that they will be 'disregarded' by the DWP and local authority when they calculate any means-tested benefits entitlement. A key point to remember here is that for this to work most effectively the PI trust should be set up within 52 weeks from the first payment due to the injury.

Although a PI trust can be set up at any time subsequently, any payment held outside a PI trust after 52 weeks will not be 'disregarded' and can therefore affect your benefits entitlement.

As with all trusts, there's no one-size-fits-all, and issues such as cost mean that a PI trust will not be suitable in every circumstance. However, if you do receive a personal injury payment, be sure to investigate the possibility of a PI trust well before the 52 weeks are up.

“ *If the injured party uses a Personal Injury (PI) trust to hold the payout, he or she may not have to forgo State benefits or community care payments.* ”



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# Which club will have *the most athletes* cross the finishing line in 2017?

Can the record of highest number of finishers at the 2016 Lindsays Scottish Cross Country Season Championships be beaten by athletes entering this season when it launches next month?

As we near the start line for the third year of our sponsorship of the Scottish Cross Country Season we are delighted to confirm that the National XC Championships, the highlight of the Lindsays Scottish Cross Country Season, will be held on Saturday 25 February 2017.

Callendar Park in Falkirk will be the venue once again for one of the biggest events of the year for the athletics community in Scotland.

Our partnership with scottishathletics to support the Scottish XC Season allows members and clubs to benefit from an exclusive package of legal services that will result in further investment in the club network.

## Record finishers at the 2016 finale

The National XC Championships in February this year saw a record total of 'finisher numbers' at just over 1700 – the highest in nearly 30 years. And Ian Beattie, our Chief Operating Officer was among the 840 Senior Men who entered the 12k race.

## Scottish Olympian Eilish McColgan presented the winner's trophy

Two-time Olympian, three-time British Champion, GB international and our sponsored athlete, Eilish McColgan, was thrilled to take time out of her rigorous training schedule to present the Lindsays Trophy for cross country participation to the 2016 season winners, Giffnock North AAC.

The Glasgow-based club had 217 athletes finish the three major National XC events which was enough to win the trophy from 2015 winners, Edinburgh AC.

Eilish is a fan of cross country and in fact won her first British title in that discipline when she was only 13 years old.

Ian Beattie said: *"We are delighted at the success of our partnership with scottishathletics through our sponsorship of the Scottish Cross Country Season. We look forward to continuing our support of the 2016/17 season and it will be interesting to see who will follow Edinburgh AC and Giffnock North AAC in winning the trophy."*

lindsays

SCOTTISH  
CROSSCOUNTRY  
SEASON



DATE	LOCATION
OCT 22	NATIONAL XC RELAYS AT CUMBERNAULD
NOV 05	SHORT COURSE CHAMPS AT BELLAHOUSTON
DEC 03	NORTH XC CHAMPS AT INVERNESS; EAST EX CHAMPS AT ABERDEEN
DEC 04	WEST XC CHAMPS AT AYR
FEB 25	NATIONAL XC CHAMPS AT FALKIRK



Photo (L to R): Ian Beattie, Bernie Campbell, head coach with Giffnock North AAC, Eilish McColgan and Clare McCracken, Partner in Lindsays Corporate team, with athletes and coaches from Giffnock North AAC



Andrew Butchart, Senior men's winner at the National XC Championships and Olympic 5000m finalist

# Eilish McColgan's *Rio* experience

Over the last 18 months, Eilish has overcome a serious ankle injury, surgery, a change of event, and through her grit and determination, made the qualifying time in the Women's 5k to join Team GB at the Rio Olympics August 2016.

“ *My second Olympic Games involved a mixture of emotions. I was overjoyed to make my first Olympic Final, but a little disappointed with my final performance.*

*It seems insane that I can be down about my race: it's a world apart from where I started this year. To go from barely walking to toeing the start-line of an Olympic Final falls just short of being a minor miracle but as athletes, we always want more.*

*Before the Final I felt I had a good chance of running a personal best. In the end, I ran my second fastest time ever to clock 15.12. With the lack of running beforehand, it was always going to be a struggle attempting two 5Ks within four days.*

*But although I was disappointed, there are loads of positives from the experience. And I still believe I can get under that illustrious 15-minute barrier.*

*To be brutally honest, Rio 2016 was no London 2012. Our home Games was incredible and no race will ever compare to that. I've also had the experience of a Scottish Games at the Commonwealths last year. Unfortunately the crowds in Brazil were sparse – the noise a mere bustle compared to the electricity of Hampden. But I was extremely grateful to be part of the most successful GB team ever.*

*The Olympics may be over but my season is far from finished. I still have two more races, maybe more. I'm also focused fully on the World Championships in London next year. This championship has definitely filled me with confidence about the 5,000m and reaffirmed to me that I can make positive progress within this event.*

*Leaving the steeplechase behind has been emotionally tough but I'm excited about this new journey. Who knows, a 10,000m might even be on the cards for next year!*



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# FINISH LINE

# Our proud support for Scotland's *passionate estate owners*

This year, for the first time, we sponsored the Golden Plover Award which celebrates the successful work of Scotland's upland farmers.

Our Rural team attended the Scottish Game Fair at Scone Palace in July where the presentation ceremony for the Golden Plover Award 2016 was introduced by Head of Rural Services, Michael Yellowlees and presented to the Hopes Estate, near Gifford.

The Golden Plover Award, developed four years ago by the Heather Trust and Game and Wildlife Conservation Trust (Scotland), recognises the best of integrated, sustainable upland management and we were delighted to support the Award. This year the Award theme reflected sheep farming's role as a major upland land use.

We work with a number of the largest landed estates in Scotland, some of whom have been clients of the firm for over 200 years and have owned their estates for centuries.

Michael Yellowlees said: "We are delighted to be associated with the Golden Plover Award. Our affiliation is an ideal fit given our longstanding relationships with generations of families from numerous Scottish estates and farms, many with strong sheep and sporting enterprises."

Four estates from across Scotland made the final shortlist. The judges pronounced the Hopes estate the winners as they were impressed by the breadth and variety of management across the estate.

Michael continued: "All the Award finalists highlight some of the very best work being done in moorland management throughout Scotland."

“ We are delighted to be associated with the Golden Plover Award. ”



**Photo (L to R):** Simon Thorpe, Heather Trust Director; Andrew Salvesen, GWCT Trustee; Michael Yellowlees, Head of Rural Services at Lindsays; Antony Braithwaite, Heather Trust Chairman; four representatives from The Hopes Estate; Adam Smith, GWCT Director Scotland

“Our expertise and in-depth knowledge of the specialist areas of agricultural law involved in managing estates means we understand the challenges faced by owners. They must successfully balance their passion and commitment to managing Scotland's uplands with maintaining revenue sources. They are also now faced with the additional issues of complex changes to the system of land registration and the Scottish Government's land reform proposals.”

# A tale of *two siblings*

**Farming and families can be a challenging combination if the business structures don't cater for the ups and downs of family relationships.**

This is the story of two siblings and two farms. The farms are held in a family farming partnership and each brother lives on a different farm. The brothers disagree about farming, land use, money and much else besides, and each habitually considers 'his' farm as a separate entity.

Except that the farms are not separate entities because they're held in a single partnership structure set up decades ago. Given their animosity, each brother wants a clean break from the partnership, but its structure makes this impossible.

“*Rural partnership disputes are normally much more complex than divorce.*”

A common analogy for such a situation - with its combination of emotion, family and the division of assets - is an acrimonious divorce.

However, rural partnership disputes are normally much more complex than divorce. The pathways for a split are less defined; there are labyrinthine partnership structures to unravel; and perhaps complex tax and inheritance arrangements in place. The remedy for a resigning partner is often to receive, over 5 or more years, a cash sum equal to their share of the business, rather than to be able to demand any one asset such as the farm they regard as their own. The consequence of this is that those finding themselves in such situations have no alternative to reaching agreement where resignation is an impossible option.

Furthermore, divorces rarely involve the division of assets such as combine harvesters worth hundreds of thousands of pounds, nor the division of debt incurred to buy them.

Dealing with situations like that above (which, by the way, is fictional, but very typical of rural partnership disputes) is hugely complex, given the relationships

and legal structures involved. They require a multi-disciplinary approach, involving not just rural specialists but experts in alternative dispute resolution and litigation. Even then, disputes and litigation can continue for years.

Siblings like those above will probably never gather happily round the Christmas tree in future years, but good constructive legal advice should permit them to effect a clean break, farm independently, and lead the lives they want to.

And for anyone else thinking about mixing farming and family – or already doing so – it is essential to apply risk management in structuring the business, trying to anticipate and protect against fall-outs and family feuds. Not just feuds in your own generation but in future ones too.



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# Business owners and the *stitch* in time

Many people assume that Powers of Attorney (PoAs) are relevant only for people's personal affairs. In fact, they are important to small business owners too. A simple stitch in time now could save your business many more stitches, and much stress, later on.

People often talk about Powers of Attorney in the context of planning for retirement or old age. But if you are a sole trader or run a small business, putting in place a Power of Attorney could be critical to the wellbeing and survival of your business if you suffer health or incapacity problems.

All that's involved is a straightforward legal document saying who would run the business if you could not do it yourself.

Let's suppose you are a sole trader, you fall off the proverbial ladder and become incapable of running the business or your own affairs. This could be for a month or two, or longer.

“*PoA could prevent such a situation poleaxing your business, and is easy to do.*”

If the business accounts are in your name only and you have no PoA in place, no one else would be able to access them or run your business. Yet, there would still be bills and suppliers to pay, customers to serve, tax returns to file and so on. This could be devastating for your business, its credit history, reputation, and customer relationships, as well as for any dependants relying on your income.

Any family member or friend who wanted to step in to run the business would have to apply to court for Guardianship, which

is expensive and slow. Currently, in East Lothian, for example, guardianship applications can take up to a year.

Arranging a PoA could prevent such a situation poleaxing your business and is easy to do. There are a few things to note, including:

- PoAs can apply to people's financial affairs and/or welfare. Only the former type applies to a business.
- You don't have to appoint the same attorney to handle your business affairs and personal affairs – different people may be better suited for each task.
- With a partnership or company, you must ensure the PoA doesn't conflict with other arrangements, such as the terms of partnership agreements or the articles of association. Advice is important here.

Finally, if disaster does strike and you do not have a PoA in place, it is essential for your family or partners to take immediate advice on obtaining Guardianship. They must not let the stress of the situation delay them from doing this.



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## Coming soon to a property near you

### Private landlords should ready themselves for major new legislation on the horizon.

Anyone who lets out a residential property to tenants, or plans to do so, should be aware that new legislation is on its way. The time of arrival is as yet unknown but is expected to be late 2017 or early 2018.

Whilst the timing may be vague, what is certain is that the new legislation will make major changes to renting and letting residential property in Scotland.

Under the current system, landlords let property under 'assured tenancies' or 'short assured tenancies'. The new legislation will replace these with the Scottish Private Residential Tenancy, or SPRT.

The government's intention in introducing the SPRT is to create greater stability in the private rented housing market. Changes for landlords will include simplified rules for giving tenants notice.

Less welcome to landlords will be tenants having greater security of tenure under the new system.

Currently if you let a flat for six months or more, you know you can get it back on the "no fault" ground, assuming your

paperwork is completed and delivered properly. With the new SPRT, landlords will no longer have this automatic right to repossess the property. Instead they will need to show grounds for repossession, such as selling the property, a family member wanting to live there, rent arrears or anti-social behaviour.

One key point about the new legislation is that it is not retrospective. Any existing assured or short assured tenancies will continue on the old basis. But you will have to use the SPRT if you enter into a new tenancy agreement after the legislation takes effect.

Given there's no arrival date for the SPRT, change is not imminent. But we strongly recommend watching out for its advent and to get advice about how its introduction will affect you and what you need to do.

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## A new *abbreviation* for your checklist

### If you own an interest in a business, you may need to learn a new term: the PSC. Breaching the rules could be a criminal offence.

The legal system has an unfortunate tendency to love acronyms and abbreviations, and we must introduce you to another one: the PSC. It stands for People with Significant Control, and it may well apply to you.

There is also a Register of PSCs, where details of these people must be recorded.

All this matters because failure to comply with new rules on PSCs could land you with a fine or even a prison sentence of up to two years. It's worth reading on, then.

Unfortunately, the definition of 'significant control', under the new rules, is not straightforward since there are various conditions and convolutions at play. But if you think you hold 25% (or more) of the shares and/or voting rights in a company or limited liability partnership (LLP), you are likely to be considered to be a PSC.

Since April 2016, every company or LLP must maintain a Register of PSCs, and provide the information to Companies

House. Companies or LLPs are required to take reasonable steps to contact all their PSCs and to keep the Register of PSCs updated.

This means that any business you are involved with should contact you for information, and the onus is on them to provide the necessary documentation to Companies House.

However, as an individual, you do also have your own obligations in terms of providing accurate information to the business and to notify them of your PSC status if they do not contact you themselves.

If you think you or your business may be affected by the new rules on PSCs, then it's worth investigating, or taking advice, in order to avoid breaching them. The procedures for adding PSCs to the Register are not complex, but it's another task to add to your business or personal checklist.

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# Does the *shoe* policy fit?

## Is it legal to set restrictions and requirements on what your staff wear to work – from heels to ties?

Shoes, scarves – they're such innocuous items in themselves, yet they are causing a great deal of consternation among some employers.

The issue is business dress codes, and what staff are permitted, or not permitted, to wear at work. There has been extensive press coverage about this recently, in particular about a multinational business that required a receptionist to wear heels.

There is also long-running media and legal debate, including in the European Court of Justice, about employers' treatment of women who wear headscarves at work, as part of religious dress.

Most debate around dress codes centres around whether or not they are discriminatory. For example, is requiring women to wear heels sexual discrimination? Is banning women from wearing headscarves an example of

religious discrimination? Do men and women have to follow the same dress rules?

Employers may want straight "Yes" or "No" replies to these and several dozen other questions, but most of the time the answer is "It depends".

Dress codes should generally be drawn up for a sound reason, such as communicating a professional, corporate image or ensuring health and safety (for example, banning clothes that might catch in machinery, or, in the case of clinicians' ties, spread infections).

Your dress code should avoid discrimination, but this does not mean that men and women should be subject to the same rules. For example, requiring men but not women to wear a tie at work is not discriminatory provided that female staff are required to meet a comparable standard of smartness.

Of course, the dilemma for the employer is, what exactly is a comparable standard of smartness, and where do you draw the lines on anything from heels to visible tattoos?

“ *Dress codes should generally be drawn up for a sound reason.* ”

ACAS (an organisation focused on preventing and resolving employment disputes) has issued practical guidelines on dress codes and how to avoid discrimination. They emphasise the application of common sense, and consultation and communication with staff.

In our view it will be difficult for an employer to justify a requirement that a female employee wear heels as a comparable level of smartness can be achieved by wearing flat shoes.

But in the end, decisions about what's in the code will come down to individual businesses and fine lines. If in doubt, be flexible and consultative; if you're still worried, take advice.

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# A dream move or a *step too far?*

The offer of a new job in the sun can raise difficult questions about your family's residence and access arrangements.

Relocation can lead to serious dilemmas or disputes for parents who are divorced or separated. If you were offered the chance to relocate, would you immediately grasp the opportunity, or consult with your ex-partner about the implications for residence and access?

Equally, if your ex-partner wanted to relocate your children abroad or south of the border, would you attempt to prevent him or her from doing so? And if you reached deadlock over the issue, who do you think the law would favour?

Such questions are becoming increasingly common for parents, and lawyers, as lifestyles become increasingly international. They can throw post-divorce arrangements for children into disarray, and wipe out all the previous good work to establish workable residence and contact.

“ *In dealing with relocation disputes, the courts' criteria come down, in a nutshell, to what is best for the children.* ”

If the parents cannot agree a solution – themselves or through lawyers or mediators – the case will end up going to court. Owing to the polarised nature of relocation disputes, this happens often. It's hard to find middle ground

between relocating children to Australia or not relocating them.

Even where one parent moves somewhere closer, there can still be deadlock over the frequency of contact, and the financial implications of contact arrangements.

In dealing with relocation disputes, the courts' criteria come down, in a nutshell, to what is best for the children - what would life for the children be like in the new location (be it Adelaide or Aberdeen) versus what it is like in their current home?

The task for each parent, therefore, is to frame what their preferred version would look like. For the relocating parent, this comes down to more than telling the children they can have a pony or a house with a pool. Thorough preparation will be needed on aspects such as the proposed living and education arrangements for the children and plans for them to stay in contact with the “left behind” parent, and experienced legal advice on what the courts will be looking for is essential.

Legally and emotionally, these situations are difficult for all the family members, and there are no easy solutions. But as careers and relationships become more international and mobile, it's a situation that more and more families may find themselves facing.

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## Double success at legal awards

We were the proud winners in two categories at the Scott & Co Scottish Legal Awards 2016 earlier this year: Family Law Team of the Year and the award for Community Contribution.

Dougie Vipond and Catriona Shearer were the celebrity hosts at the black tie event in Edinburgh where we were successful in both categories in which we submitted entries.

The 12-strong judging panel praised the strength of our Family Law team, its expertise and the innovative services we are providing to clients across all of our offices. Alison McKee, Partner and Head of Family Law collected the award along with five of her eight team members.

Our bicentenary celebrations in 2015 included Lindsays 200, an initiative giving the staff and partners the opportunity, over the year, to invest time during the working day to volunteer for causes that matter to them, and which supported the local communities in which our offices are located.

The judges were impressed by the unique manner in which we recognised this notable anniversary and also with the breadth of engagement and enthusiasm shown across the entire firm.



Commenting on the awards, Managing Partner, Alasdair Cummings said: *"It is immensely rewarding for our firm to be recognised for our support for national charities and local community projects."*

Alasdair continued: *"I am delighted for Alison and the team winning the prestigious Family Law Team of the Year award. This is a well-deserved reward for a lot of hard work."*

## Nurturing future legal talent

Four aspiring solicitors start their two-year traineeship with Lindsays.

We are delighted that four ambitious graduates have joined as trainees this month.

Our goal is to have the right staff with the right skills to ensure we have superb people to advise and support clients. We are committed to investing in our people and believe in helping our staff succeed. Our Managing Partner, Alasdair Cummings, was himself a trainee with the firm.

A Lindsays trainee will have the opportunity to work across different areas of law and, as they progress through their traineeship, will have direct contact with clients and hands on involvement with projects and transactions.

Iona Kelly, our HR Director commented: *"During their two-year traineeship our trainees will gain experience of working in three different departments*

*and will be equipped with the right skills to develop their careers as lawyers.*

*"Our trainees will develop many other skills. They will learn how to deal with people who may be going through a very stressful situation and need guidance and practical support; how to work as a team member and communicate effectively with colleagues; know when to seek advice from someone more experienced; and understand the importance of building up a network of contacts."*

*"Our goal is to have the right staff with the right skills to ensure we have superb people to advise and support clients."*

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Photo (L to R): Laura Flounders, Eilidh Robertson, Amy Gordon, Caroline Millar

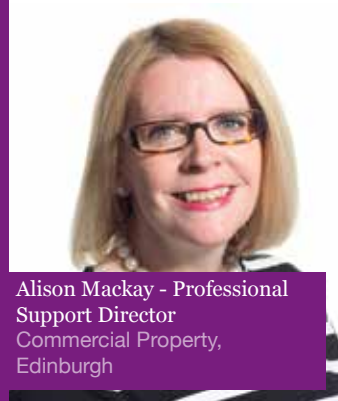
# Warm welcome to



**Anne Sinclair - Solicitor**  
Residential Property Services,  
Edinburgh



**Aggie Salt - Trainee Solicitor**  
Employment, Dundee



**Alison Mackay - Professional Support Director**  
Commercial Property,  
Edinburgh



**Ann Clark - Paralegal**  
Commercial Property,  
Edinburgh



**Dawn Anderson - Director**  
Commercial Property,  
Edinburgh



**Fiona Bunting - Solicitor**  
Residential Property Services,  
Edinburgh



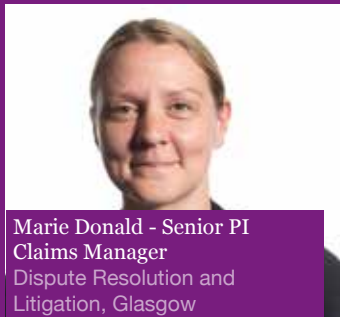
**Gavin Buchan - Partner**  
Commercial Property,  
Edinburgh



**Heather Mackay - Associate**  
Residential Property Services,  
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**Lewis Crofts - Solicitor**  
Rural Services, Edinburgh



**Marie Donald - Senior PI Claims Manager**  
Dispute Resolution and  
Litigation, Glasgow



**Peter Murrin - Associate**  
Private Client, Glasgow



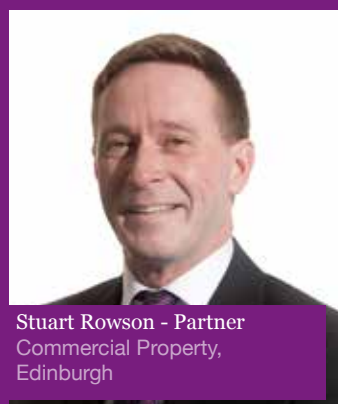
**Sandra Reid - Paralegal**  
Commercial Property, Glasgow



**Stacy Campbell - Director**  
Commercial Property, Glasgow



**Tracy McCardle - Paralegal**  
Private Client, Dundee



**Stuart Rowson - Partner**  
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**Tim Macdonald - Solicitor**  
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**Stewart Gordon - Solicitor**  
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