

lindsays life

Issue 07



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the *life* of this magazine

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Welcome to the latest issue of *lindsays life*.

Scotland is firmly on the world stage this year, as interest focuses on the Commonwealth Games in July, closely followed in September by the Ryder Cup and the Independence referendum.

Lindsays is delighted to be sponsoring one of our brightest young sports stars, steeplechaser and medal hopeful Eilish McColgan, and you can read about her journey towards the Commonwealth Games and beyond in our centre spread. We also have an insight from Nigel Holl, Chief Executive of Scottish Athletics – the organisation responsible for governing athletics in Scotland and developing the teams of athletes that represent us.

We are pleased to introduce our first client profile and are delighted that Martin Wishart, the man behind some of the UK's finest restaurants – along with his wife Cecile – agreed to feature.

Our clients are important to us, as are our people, and you can see some of the new faces on the back cover. The last few months have seen us strengthen our practice in Glasgow with the arrival of new Partners Alison McKee, John Bett and Alastair Goodman to the family law, dispute resolution and commercial property team respectively. Our Dundee practice continues to grow, reflected by the move to new modern premises at Seabraes.

This edition also looks at a range of other topics including surrogacy, whether grandparents have the right to see their grandchildren, this year's Budget announcement on changes to pensions, the growth of social enterprises, and how pets are playing an increasing role in our legal lives.

We hope you enjoy the magazine.



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Do grandparents have a right to see their grandchildren?

There are rarely “winners” when couples separate and divorce – but loving grandparents can often be amongst the biggest losers as contact with much loved grandchildren is lost.

Around 9,500 couples divorced in Scotland last year – and research carried out by a consortium of family-focused charities has shown that in more than 40% of cases one set of grandparents ends up losing contact with the children involved in a divorce.

It’s a sobering statistic – and one that is unlikely to change anytime soon. Grandparents have no automatic legal right to see their grandchildren and need to make an application to Court for a contact order. Unfortunately, there are no plans to amend the existing legislation, which does not include any presumption of visitation rights and makes the best interests of the child the sole consideration. The Government did produce a Charter for Grandchildren which emphasises the valuable role played by grandparents but stopped short of granting any automatic rights.

And this situation is set against another modern development – the increasing reliance on grandparents to provide childcare. A recent Growing Up in Scotland survey for the Scottish Government showed that 69% of families rely on grandparents for childcare – saving billions of pounds a year. The role of grandparents in modern society has increased, in part due to the often prohibitive costs of child care. Whereas traditionally grandparents have played more of a part in raising families when they have all lived together under one roof, in Britain, in recent years, that has not been the case.

Losing contact is a very difficult situation which is, sadly, faced by many grandparents every year. People who have helped care for their grandchildren, and

who have also often helped financially support them, can suddenly find themselves in danger of losing all contact. The grandchild who may have had a very close relationship with their grandparent can be cut off from them, often with no explanation, which can be confusing and distressing for them.

If there is a breakdown in the relationship between the grandparent and son or daughter-in-law then the grandparent should make an application to the court for parental rights and responsibilities in so far as it relates to contact. The court then has to be satisfied that the Order should be granted and is in the child’s best interests.

It is vital that anyone faced with this heart-breaking situation gets proper, qualified advice to avoid making what can be a traumatic and adversarial situation even worse and try to resolve things in the best way possible for all involved.

Best Grandparents



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Greater pension freedom for millions from April 2015

Millions of people throughout the UK will benefit from changes to pension rules, due to come into force in April 2015.

Heralded in the March 2014 Budget, the changes to the way people can draw their pension became one of the biggest stories from the Chancellor's speech.

From April 2015 savers will be given total freedom over the way that they withdraw pension money. People reaching pension age will be able to access the whole of their pension anytime after age 55 (subject to income tax at marginal rates on three quarters of the money).

Put simply, the biggest advantage for those coming up for retiral is increased choice. In the past, many retirees felt that they were required to buy an annuity with their pension savings although there have been other choices available for some years.

The newly announced measures mean they will be able to draw their entire pension in one go, draw down over time or if they wish, buy an annuity on their own terms.

The changes will affect those over 55 who have savings in a Defined Contribution (DC) pension scheme, such as a personal pension. In a DC scheme, the pension depends on the amount of money you, and perhaps your employer, have saved in the scheme.

The bad news for those who have already retired is that if you have already purchased an annuity, you are tied to that contract and stuck with that system.

A pension annuity is an income that is bought once with a pension pot and provides an income for the rest of the holder's life – and potentially for a surviving spouse. The pension company makes its calculations around the life expectancy of a retiree. If the buyer lives longer than expected, the provider can make little or no money or even a loss. If the buyer dies sooner than expected, the company will make more money. One possible result of the changes is that insurance companies may see revenue streams from annuities tail off, which may mean more promotion of annuities and possibly a rise in annuity rates.

Many pension savers were, and are, unaware they can get an annuity from a firm other than the one that managed their investments, and shop around as they do for car insurance, a savings account or a mortgage. For those who do continue to opt to buy an annuity, it is worth remembering that the Financial Conduct Authority says that annuity income could increase by 6.8% a year if people shopped around.

Those who choose not to buy annuities may often enjoy better outcomes, but one of the perceived risks is that providing faster access to larger sums means some may spend through their money too quickly.

The idea behind the changes is to offer retirees freedom so that retirement planning can better suit their needs.

If the changes affect you, seek financial advice to explore your options.

“ From April 2015 savers will be given total freedom over the way that they withdraw pension money. ”

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Do you change the locks when you *move house*?

According to a number of recent surveys, most of us don't change the locks when we move in to our brand new home.

In fact, only 30% of people change the locks when moving in to their new home. This is understandable, given the number of things you need to consider when moving. However, it seems a little unwise to move all of your belongings in to a new property without securing the locks. Who knows how many people have had access to the keys previously – the previous owners, tradesmen, friends and family and maybe even the neighbours.

“ Who knows how many people have had access to the keys previously? ”

According to Home Office statistics, you are almost twice as likely to be broken into in the first year after moving house, and nearly three times as likely in comparison to occupiers who have been in their house for over 10 years.

There may also be knock-on effects if you are burgled and there are no signs of forced entry. Will your insurance company question the claim if a set of spare keys has been used to access your home?

Andrew Diamond, Partner says: “Compared to the overall cost of buying a property, the cost of changing locks is likely to be very modest. There is no compulsion on purchasers to change locks, but doing so can provide improved security and peace of mind – it's certainly something to which purchasers should give serious consideration.”

It is prudent to consider changing the locks when you move in to your new home – a relatively cheap precaution that will leave you free to enjoy your home. That way you know that the only people who have keys, are those that you trust.

**surveys conducted by Keytek Locksmiths and Ocean Finance*



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Looking for a new home?

Let us help you move. Contact us for a free valuation of your property

Preparing to sell your home this year? *Here are some top tips.*

Chris Todd, Partner in Dundee talks us through his tips for optimising your home for sale.

I have a good feeling about the property market. Call me an optimist, but with all the current changes and consumer confidence growing it has made for an interesting year so far.

The government 'Help to Buy' scheme is already gaining momentum, with the volume of buyer enquiries up a staggering 92%, and the average age of first time buyers decreasing. These facts should have a tremendous knock-on effect for the rest of the market.

So how do we as home owners capitalise on this growth and ensure our home stands out from the crowd?

Here are my 'Top Ten Tips' for selling your home :

1. **Kerb appeal** – the first impression your property gives is crucial: how will your property be perceived at the first viewing? A clean, tidy and decluttered front garden is key.
2. **Windows & roof** – a quick visual inspection should tell you if any areas need attention. Timber windows require attention if the paint is flaky or they do not open correctly. Are there any slipped roof tiles or leaking gutters that need to be rectified?
3. **Front door** – a well maintained or newly painted door will give a great first impression. How does the door furniture look? Do you have a doorbell? Does it work?
4. **Exterior decorating** – is the render or cladding to the outside of your home looking tired or has it been affected by the weather? Some simple maintenance and attention will go a long way – exterior problems may discourage potential purchasers if they think there is a larger underlying issue with the property.
5. **Interior decorating** – you don't need to invest in expensive papers & paints, but a fresh and neutral colour scheme will noticeably help you and gives potential purchasers a blank canvas on which to imagine their own belongings. Are your carpets or floor coverings looking a little tired and worn?
6. **Kitchen** – there are a multitude of ways to achieve a new kitchen look without actually purchasing a new kitchen. New doors or worktops, a lick of paint on existing doors, new glass or tiled splashbacks, new taps... the list is endless.
7. **Bathroom** – please no carpet! You do not have to fit a new bathroom to improve your chances of a sale but taking the time to ensure the walls, grouting and sealant look fresh, for instance, can make a big difference.
8. **Declutter & clean** – a declutter and thorough clean of all rooms is a must. Try to remove as many personal pictures and ornaments as you feel

comfortable with. It is also a good idea to remove some of the furniture to create space. Ask if family and friends can help you with storage so that you can get the best out of marketing your property.

9. **Planning & building warrants** – if you have just finished an extension or renovation, ensure you have all the correct paperwork available to pass on to your solicitor and ensure you have the correct completion certificates for any building works.
10. **A good agent, advice & timing** – receiving the best advice in regards to all aspects of your property is the best way to ensure the best outcome. Ensure you are comfortable with the advice and timings.

Ask questions to clarify any aspects that you do not understand and do your own research. Zoopla, Rightmove and solicitors property centres such as TSPC, GSPC and ESPC all have excellent online resources to call upon.

The best of luck in whatever property endeavours you choose to pursue.

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Why *Power of Attorney* is a good idea

When people think about Power of Attorney it tends to be in the context of protecting themselves in the future, should they become unable to manage their own affairs, rather like an insurance policy.

However there are many other ways that a Power of Attorney can be used to help in everyday life that you may be surprised to learn. We are increasingly seeing people think ahead and make use of them in a whole range of different ways as a sensible planning measure.

A Power of Attorney is a document appointing someone to act on your behalf for specific purposes. It can cover financial affairs, either for a certain transaction, or for a certain period of time. They can also cover matters relating to your personal welfare such as care and accommodation or consent to medical treatment.

For example, couples may decide to grant each other Power of Attorney given the possibility of either being afflicted by sudden illness or injury and incapacitated mentally or physically. But it's not all about illness, injury or incapacity. If one partner spends a lot of time working overseas for example – an increasingly common situation in these days of increased employment mobility – then a couple may choose to have a financial Power of Attorney drawn up to make financial transactions easier for the family.

“ A Power of Attorney is a document appointing someone to act on your behalf for specific purposes. ”

People are also choosing to make use of Power of Attorney in different ways. For example, parents whose offspring choose to spend a pre-University year out abroad can be granted a combined financial and welfare Power of Attorney to help them deal with any eventuality, from lost passports to serious illness. Or someone may grant Power of Attorney to a trusted friend or professional to complete a financial transaction – for example a house sale – which is likely to close while they are out of the country.

Then there are the more traditional uses. A Power of Attorney can be drawn up now to become effective in the event that you are no longer able to manage your own

affairs. To become effective, and to enable your Attorney to act on your behalf, the Power of Attorney must be registered with the Office of the Public Guardian which supervises all such appointments. So you could draw up your Power of Attorney now and simply put it away to be registered in the future, or you may wish to include provision that the Power of Attorney must not be registered unless a doctor certifies that you are not able to manage your own affairs.

Most importantly, you should appoint someone you trust: perhaps a family member, close friend or a professional person – whoever you feel comfortable having deal with your affairs.



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Who would take care of the kids if the worst were to happen?

Something happens to you and your partner, leaving the children with no one to care for them. It's the nightmare scenario – and perhaps because it is so unthinkable we tend to assume that such awful things can never happen to us.

Sadly, we know such things can happen. And when they do, the consequences for families can be made even more devastating if no provisions have been made.

Who will look after the children and bring them up in line with your wishes? How will they survive financially? Remember children under 16 have very limited legal capacity. They can't contract, litigate or look after their own finances. If ever there was a reason to ensure you have a Will, surely this is it.

If children are under 16 a Will can provide for the appointment of a guardian or guardians until they become adults – allowing parents to be secure in the knowledge that if the worst was to happen they have someone they trust to look after the interests of their children.

More and more parents are appreciating the common sense of careful planning, even in this most delicate of areas. Clearly, a vital consideration is the choice of guardian and that choice should be informed by appointing someone who:

- Has the same values as you, is suitable, trustworthy and honest
- Has significant parenting skills
- Can offer a stable family environment
- Has a good relationship already with the children
- Is willing and able to act and can do so on a long term basis - to be effective on death the guardian has to accept the appointment
- Your children get on well with - you must discuss the subject with them, however painful

In these discussions the role and remit of the proposed guardians must be clearly understood by all concerned. They would look after the day-to-day care of the children, make decisions about upbringing, finances, education, health and welfare, contract and litigate on their behalf – generally do all that their parents would have done for them if alive. They can act as Trustees for property held in trust for the children, along with, if necessary, other trustees not related to the guardians, such as solicitors and accountants to provide support and guidance on the legal aspects of the Trust.

Your choice of appointee should be subject to review, with an eye on the possibility of changing circumstances such as separation, divorce, their leaving the country or for some reason no longer being willing or able to carry out the functions expected of them.

There is a proviso that if the guardians are considered as inappropriate then it is open for interested parties to approach the Court requesting their removal. However, it would have to be a very good and sound reason and in the children's best interest for the Court to reverse the written appointment which has been accepted by the guardian.

A guardian appointed in writing in your Will automatically acquires the full complement of rights and responsibilities of the parent on the death of the parent. While we all hope this scenario is one we never have to deal with, it does underline the importance of making your own choice of who you want to stand in your shoes, should the worst happen, when your children are under the age of 16.



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Named Guardians : the Scottish Government are proposing to have a named "guardian" for children in terms of the Children and Young People (Scotland) Bill, which was passed in February. This should not be confused with a Guardian appointed in writing by a parent, as we discuss here. It is simply a specific named person appointed from NHS or Local Authority, such as a teacher or health visitor, to monitor every young persons' well-being, to provide a safety net from birth to 18. Such a person would not acquire parental rights and responsibilities.

Focus: Eilish McColgan tracks her progress

We are proud to support Eilish McColgan, one of the rising track stars of Scottish and UK athletics. Here Eilish charts her progress towards the Commonwealth Games this year in Glasgow and beyond.

Athletics has always been important in my family - with a World Champion for a mother and a native record holder as a father it was always going to be in my blood. But athletics began for me through my own choice.

At Primary School, I was entered into the local cross country race. I only managed 4th place but I absolutely loved it. I had always been extremely sporty, playing netball and hockey, but athletics was the one that stood out for me. It allowed me to be independent and in control of things. It was down to me how I performed.

I initially joined the local athletics club that my mum used to be a member of, the Dundee Hawkhill Harriers. It has been one of the best decisions I've ever made. Fast-forward 11 years and I've been able to turn my hobby into my job. Not only that, but I've met some of the most amazing people

along the way, had the opportunity to visit so many different countries and race on the biggest stage of them all: the Olympic Games, in front of 80,000 people.

My mum always told me that in any sport there are more lows than there are highs, but that the peaks far outweigh the troughs. As an athlete, you tend to forget any negatives you've overcome and replace them with the memory of success. Injury and illness dwell at the back of your mind and the focus is on trying to be the best you can. When things go well, it's easy. But when things start to fall apart – that is when it's crucial to stay focused and wait for things to improve again.

I was very unfortunate to suffer a complete fracture in my left foot at the end of the 2011 season. It was my first ever televised, international race and my last opportunity to qualify for the World Championships (20 years after my mother had won) so it

was really special to my family. That dream crumbled away within seconds, as with 600m to go, I felt a large pop within my foot. The pain was excruciating – I knew instantly it was broken. I underwent surgery to reinforce the bone with a specially shaped plate and five small screws and it was extremely difficult to get back into competitive sport again. The surgeon warned me that "getting back jogging" would be achievable and I should take that as a positive after such a bad fracture. But in the back of my mind, I wanted to make the London Olympics, less than a year later. I had a poster on the wall in front of my bed of the 2012 logo. I had a very small possibility of making the Olympic team after such a serious injury, but the poster was there to focus me. Subconsciously every single morning I would spot the poster when I got out of bed before training and in the back of my mind I wanted to be on that team.

My life consisted of cross training for an hour twice a day for almost the full year. It was hard graft - I was determined to make that team. From learning how to walk again with my weirdly shaped foot, to finally getting back on to that track – it was a huge learning curve for me and strengthened me mentally.



Fast-forward a year and my experience at the Olympics definitely paid off. I made my first World Championship in August 2013 and managed to make the final and place a respectable 10th place. With the African athletes taking up the first seven places I was extremely pleased to have featured in the final. My event – the 3,000m Steeplechase – is dominated by the Africans and this explains why I have now visited Kenya on three separate occasions for Altitude Training Camps. These camps have made a huge difference in my training ethos and fitness. Iten is situated at 8,000ft high in the Rift Valley and home to hundreds of the world's top athletes. Training there is a huge eye-opener. There is not a bit of flat land in sight and the thousands of trails which surround the town are of tough, uneven mud terrain. Running in Iten doesn't come easy. It really is an awe-inspiring place to visit and the locals are the friendliest people I have had the pleasure of coming across. Life is simple. Eat, sleep, train, repeat.

There are no distractions. It is the bare minimum – constant power cuts, cold showers, limited internet. Running is the only priority.

I hope camps like these will put me in the best possible position for the Commonwealth Games. To have raced at the Commonwealth Youth Games for Scotland back in 2008 and to have now made the senior team six years later is something I am really proud of. I have to be realistic in my aims. Kenya is a Commonwealth country and so my race could potentially have the top three athletes in the world. My current ranking is 4th. All I can ask of myself is that I perform to the best of my ability and run the fastest I've ever run – if that is good enough on the day to sneak into the medals, I will be more than happy. At the age of 23, I hope this is only the beginning of my journey. The real hard work starts now.

“ Eat, sleep, train, repeat. ”

Scottish Athletics is the governing body for athletics in Scotland, established to foster and develop athletics and take responsibility for all athletic teams representing Scotland. Here Chief Executive Nigel Holl talks about their journey.

Clubs are at the heart of any progress athletics will make as a sport – whether that is for 12-year-olds or for Commonwealth and Olympic level athletes.

Many clubs are now in a much better place than a couple of years ago, but there are significant challenges ahead. We are working hard on those challenges, with the help of a number of partners, to educate coaches better, recruit more volunteers and support our athletes – at the top and at grassroots. At the very elite level, that includes forward thinking organisations such as Lindsays taking an interest in and sponsoring Eilish McColgan. Eilish herself has spoken often of Dundee Hawkhill Harriers, her home club, and one of those on our Club Together programme which gives clubs additional resources and support.

Kids are enthused about athletics and will be even more so after the Commonwealth Games in Glasgow this summer so it is essential clubs are ready. Working on that really is working on the Games Legacy – which I feel is what we should be all about as a governing body.

A home Commonwealth Games will inevitably attract a lot of attention. The catalyst effect should mean the next generation of stars come flooding through the doors and I want to see them at the National Cross Country and the National Track and Field Championships a couple of years from now. There are huge opportunities for everyone in athletics in Scotland and I urge everyone to get involved where they can.



Who gets the *pet*?

They are our loyal, loving and treasured companions - our furry and feathered friends. So perhaps it shouldn't be a surprise that our pets increasingly feature in the big decisions we make about the future.

Research and experience shows that pets are now commonly mentioned in Wills as a beneficiary – with one survey showing them as the sixth most popular choice behind our children, our partners, our wider families, charities and our friends. Put another way, it is estimated that around 1.5 million people plan to leave assets to their pooches, ponies, parrots and moggies. But planning for when we are gone is not the only situation that we now factor pets into. Law firms increasingly see separating couples negotiating over the custody of the family pet, and in some cases pets even feature in pre-nuptial agreements. We have seen the trend develop in recent years first hand.

David Reith, Head of the Private Client team, said: “We advise significant numbers of people who wish to make specific provision for their much-loved pets in their Will, specifying who should become the caregiver for their pet or leaving part of their estate to ensure their pet is well cared for.

“When you think about it, this is good planning. For example, if an animal has been a faithful companion, it is natural that they would wish to do all they can to ensure their pet continues to be well-cared for once they are gone, and to set aside funds to help finance that care, be it through a friend, family-member or charity.

“In addition, real expense can be involved. For example, caring for horses can be an expensive business in terms of stabling, feed and vet bills.

“Remember though, it is also good planning to ensure that the party named as the recipient of said pet is aware of this responsibility, and willingly accepts!”

When it comes to matters of separation and divorce, “who gets the dog?” is becoming an increasing bone of contention between couples – with high profile celebrities spitting feathers over pet custody. For example, movie stars Kirsten Dunst and Jake Gyllenhaal allegedly fought over their German Shepherd Atticus when they split. Similarly, Drew Barrymore reportedly argued for rights to Labrador Flossie when she divorced comedian Tom Green.

Head of Family Law at Lindsays, Alistair Mackie, said: “Pets are becoming more of a consideration when it comes to distributing assets in divorce and separation proceedings and feature more regularly in the negotiations between couples. We have been involved in cases where property has been agreed upon in a fairly straightforward manner, but neither party can bear to part with their pet and it can prove difficult to resolve. In these cases joint custody can sometimes be an option.

“Where there are children from the marriage, we have increasingly seen couples responsibly agreeing that the pet should stay wherever the children are, therefore sharing custody of the pet and ensuring their children don't lose out.”



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Surrogacy and the *facts of life*

It may still be rarer than adoption, but more people encountering difficulties in conceiving or giving birth naturally are choosing to use surrogates to help them start or expand their families.

Since 2007 the number of people taking the required legal steps to obtain recognised parental rights and responsibilities for children born through the use of a surrogate have tripled in the UK.

There are a whole range of factors behind the sizeable increase, including social factors and the ability to have a genetic link to the child. There have also been a number of high profile cases of the use of surrogates, including Oscar winner Nicole Kidman and her husband Keith Urban, and actors Sarah Jessica Parker and Matthew Broderick.

Although surrogacy can provide the solution for many families, the legal and practical aspects of the process should not be underestimated and should form an integral part of early planning discussions. This is essential to ensure the relationship between the child and its intended parents is given the correct legal standing. Early consultation with lawyers experienced in the field of surrogacy can also help smooth out or prevent any practical issues which might otherwise arise.

Legally, surrogacy arrangements are not enforceable, although in most cases the courts have ruled in favour of parents seeking to uphold a surrogacy agreement. The surrogate mother has the legal right to keep the child when it is born – even if a contract has been signed and any expenses paid. Until a court order is made, a surrogate mother will always be treated as the child's mother.

If the woman is married, or in a civil partnership, her husband will generally be treated as the child's father – even if he has no biological link to the child. However, the law is moving towards recognising change. For instance, from April 2015 intended mothers will be able to claim maternity leave, once parental rights have been transferred, rather than this automatically being available only to the surrogate.

Parenthood can only be “transferred” to the intended parents through a court order called a Parental Order, or through adoption. An application for a Parental Order must be made within the first six months of a child's life. The Court can also regulate matters through parental rights and responsibilities, awarding them to the intended parents while simultaneously depriving the surrogate mother and her husband of their parental rights and responsibilities.

If you are considering surrogacy or adoption, it is important to seek legal advice as early on in the process as possible.

key facts:

- **Partial surrogacy involves the surrogate mother's eggs being fertilised with the intended father's sperm**
- **Full surrogacy means there is no genetic link between the surrogate mother and child, and involves implantation of an embryo using: the eggs and sperm of the intended parents; or a donated egg fertilised by the sperm of the intended father; or donor eggs and sperm**
- **It is illegal to advertise for a surrogate, or for a surrogate to advertise her services. Potential surrogates may be met via the non-profit organisation Surrogacy UK**
- **Surrogate mothers can't be paid a fee, but can be paid “reasonable expenses”**

1999

Restaurant Martin Wishart opened in Leith

2001

Awarded Michelin star – the first in Edinburgh

2007

Cook School opened

2008

Martin Wishart at Loch Lomond opened

2011

Awarded Michelin star for Martin Wishart at Loch Lomond

2011

The Honours brasserie opened



Client profile: *Martin Wishart*

He's the man who gave Edinburgh its first Michelin star, and helped to establish the Capital's stellar gastronomic reputation, which is second only to London in the UK.

Martin Wishart, a client of Lindsays for a number of years, has been a major force in the explosion of interest in food, and in fine dining, in Edinburgh and Scotland over the past decade.

Starting out with wife Cecile in 1999 with the opening of his eponymous restaurant in the historic Shore in Leith, the couple have now grown their business to include their restaurant at Cameron House on Loch Lomond and The Honours brasserie in Edinburgh city centre, as well as the Cook School in Leith.

Martin remembers: "Owning my own restaurant had been my goal since the age of 20, so I saved what I could and when I came to work at the Balmoral in 1997-98 I formulated a plan to open in Edinburgh, my home city. I used to spend my free time cycling around the city, looking for premises – you get a better view on a bike – and asking quality suppliers if they knew of anyone that was thinking of selling."

Martin eventually found what he was looking for, then a small restaurant, Silvio's, on the banks of the Water of Leith. A conversation with the owner, Silvio Praino, led to a handshake and a deal. Silvio, himself a renowned restaurateur, remains a friend.

Martin added: "We then set about getting it as we wanted it, with help from family, refurbishing the kitchen and painting the exterior." The furniture was second-hand but Martin ensured his cooking utensils were all brand new and of the highest quality. The restaurant opened to great acclaim, with Martin cooking and Cecile front of house. The emphasis was on cooking of the highest standard, using the very best produce Scotland had to offer.

All of that dedication means that after celebrating fourteen years of continuing growth, the doors that opened with just four staff now play host to a kitchen, front-of-house and management team of over twenty five.

“ I used to spend my free time cycling around the city, looking for premises – you get a better view on a bike ”



Martin directs his team with one member of staff for every two guests, and holds true to the original mission to bring the very best traditional and modern French cuisine to Edinburgh, using the finest and freshest local ingredients.

Martin counts Michel Roux Jr, Marco Pierre White and John Burton-Race amongst his major influences and stays at the top of his profession by forming bonds with other internationally acclaimed restaurants. He often takes the team on trips to restaurants in Paris and London but inspiration can come from anywhere – be it a trip to Mexico, or a recent family holiday to Andalucia where they sampled some great tapas. Martin says: “I enjoy food, and I draw inspiration wherever I find it. I enjoy all styles from classic French to Nordic, Asian to Spanish and Mexican.”

Their dedication to quality is reflected in the impressive and lengthy roll call of awards won over the years. Apart from the Michelin star gained in 2001 – and retained every year since then – the Leith restaurant also has a coveted four AA Rosettes - equivalent to two stars. Martin says: “I remember when we got the call about the Michelin star, which carries a heavy weight for chefs. We had a full restaurant in for lunch so unfortunately there was no champagne in hand at the time!”

Loch Lomond also has a Michelin star, and over the years over 20 other different awards and accolades have been garnered, voted for by peers, the trade, the press and food guides alike.

Martin cites being awarded an honorary degree of “Doctorem Honoris Causa” from The University of Edinburgh in 2011 for his outstanding culinary contribution to Scotland as one of his career highs to date. He said: “That is definitely one of the highlights of my career. To gain recognition of my food on the international scene from an institution like The University of Edinburgh, and to take part in the ceremony at the McEwan Hall, was definitely a high.”

Martin continues to strive for professional success and aims to strengthen Scotland’s reputation for good food and to encourage others with his enthusiasm for cooking. He says: “The food culture in Edinburgh, Scotland and the UK has exploded in the past decade, on the back of interest in chefs and what goes on in the kitchens, with TV helping to drive that.

“In Edinburgh we have a transformed landscape, with so many restaurants and a lot of very good ones. The city’s reputation now attracts travelling gourmets to visit, in turn that helps bring in the best suppliers. It all helps to raise the standards, right across the board.

So what is next for Team Wishart? Martin says: “I’ve really enjoyed my journey to date, and am still enjoying it. Of course we would love to gain that second Michelin star, but what we focus on is cooking on a day-to-day basis and taking the opportunities that we can to build the business.”

Watch this space!



Worried about *future development* of neighbouring land?

Landowners in Scotland need to be aware of two important statutory provisions that will take effect later this year. Financial cost and loss of amenity are two potential risks posed by the changes.

The current system of land registration is regulated by The Land Registration (Scotland) Act 1979. It was envisaged that all property in Scotland would be registered within nine years, but in reality completing the Land Register under the current system could take centuries. The new Land Registration Etc. (Scotland) Act 2012, due to come into force later this year, should ensure that registration will be completed within decades.

The most concerning provision in the new Act from a landowner's perspective is the ability of the Registers of Scotland, which operates the Land Register, to unilaterally register property at its expense without the owner's consent.

The Registers will not cover the landowner's expenses, which in the case of large landed estates or farms could be significant. A landowner may need to instruct their solicitors to check that

their property has been properly registered. It has been suggested that by effectively forcing an owner to incur expense, the Registers of Scotland is contravening the owner's human rights. However, the view expressed by two leading Scottish Law professors is that a "Keeper-induced" registration does not prejudice the owner's rights as it is simply a case of migrating data from the old Sasine Register to the Land Register.

The second new provision relates to the preservation of title obligations created in conveyances of property. On 28 November 2014 title obligations created in non-feudal deeds such as Dispositions will be extinguished. In other words, where land has been sold by one party to another and a prohibition was put in place against, for example, erecting any buildings on the sold land, then that prohibition will disappear on 28 November 2014, unless steps are taken to preserve it.

The party trying to preserve the title obligation also has to demonstrate that it has an interest to do so. In the case of a large rural estate or farm this may be more difficult to establish given the size of the property. The landowner needs to identify which part of its property will be prejudiced by the extinguishing of the title obligation so that it can be preserved and remain enforceable after 28 November 2014.

The failure to preserve any non-feudal title obligations could have significant financial and amenity implications. If you are concerned about the possibility of future development on neighbouring land it may be worth checking your title deeds and those of your neighbours (or instructing us to do so) to see if such title obligations exist. We can then advise whether you are in a position to enforce them and whether it is worth preserving them.



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Do you read the small print?

All of us will at some time have signed up to a bank account or credit card, booked flights online, or bought electronic files such as music or books. But do you read the small print? Most of these transactions require a box to be checked to declare that you have read and accept the terms and conditions. But many of us never read them before going ahead and accepting them.

Maybe that is no wonder. For instance, according to a recent Which? study, it took readers, on average, an hour and forty minutes to read the terms and conditions for a current account. But what you should know is that when you agree to the terms and conditions, you are agreeing a contract on those terms with the company.

It is rarely practical to read the terms and conditions at the moment of agreeing to them, and rarer still to be in a position to change them. The law recognises that to an extent, and any contract with you as a consumer will be the subject of the raft of underlying consumer protection regulation that endeavours to ensure that even these contracts that have not been negotiated are “fair”. But where should you pay particular attention?

Bank accounts and loans: always read the conditions setting out charges and check any particular terms that you have been offered are set out in writing. Check if a trivial breach changes all the rates and charges. Look at notice periods - how long might you be tied in to the relationship?

Music and books: you are essentially getting rights to read and listen to these rather than acquiring ownership and control of a physical asset. That means that the provider retains rights to the items that can affect your enjoyment of them, and stop you transferring them to others, even in your Will.

Gym memberships: check the cancellation policy - what is the notice period? Is there a fee for cancellation?

Flights: look at additional costs for baggage, charges for losing boarding passes and any other costs that may be applicable. High charges contained in terms and conditions that you have “accepted” make it difficult to argue about them at the check-in desk as a queue builds behind you. It is also worth looking at any particular limits that the airline has put on compensation that may be due for late or cancelled flights.



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The rise and rise of social enterprise

Recent research by the Big Lottery Fund Scotland has identified more than 3,500 social enterprises operating in Scotland, with a combined turnover larger than the entire charities sector.

But what is a social enterprise?

Social enterprises are embedded in our communities and on our high streets – from the Co-op to Divine chocolate through to The Big Issue magazine. They are businesses that trade to tackle social problems and issues and to improve communities. They make their money from selling goods and services, and reinvest profits back into the business or the local community to meet their aims. They include development trusts, community interest companies, social enterprise networks, trading charities, housing associations and credit unions and co-operatives.

The research found that the sector employs almost 121,000 people and expects to increase trading income by 40% over the next three years, with around 60% of organisations generating more than half of their income through their trading activities.

The growth in social enterprises then, is rapid. A sector survey in 2013 found a start-up rate in social enterprises three times that of the traditional SME sector, with around 70,000 social enterprises operating throughout the UK.

In Scotland, Glasgow has the most social enterprises, with a total of 539, followed by Edinburgh, with 417. In Scotland we can continue to expect these figures to rise, as charities are increasingly moving away from their traditional models of fundraising and becoming more businesslike to ensure their sustainability.

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Lindsays sponsors *first Borders marathon*

The first Lindsays Borders Marathon & Relay took place in sunny Kelso on Sunday 2nd March, with 36 marathon runners and 12 relay teams testing their resolve on the racecourse.

The event was a great success and £2,000 has been raised for charity The Brathay Trust – a national charity which helps vulnerable children get a better start in life.

Chris Renton, organiser of the race said: "I am delighted with how the days' event unfolded, the runners and supporters totally got into the spirit of the day. I will stage

this event on an annual basis, putting the Scottish Borders firmly on the map by having a marathon event."

"I wanted to establish it because there are not many distance runs in the Borders. Our event is unusual in that it is run in laps around the racecourse and whilst it is fairly flat, there is a climb in there. It means that friends, family and spectators can become more involved in encouraging the runners. It also means runners return to their station every lap, and so can plan their race well. Having a relay element also means that runners who don't want to run the full marathon distance can be a part of the day."

Bringing Lindsays on board as a major sponsor was a significant milestone for Chris. He said: "Lindsays decision to

sponsor the marathon made a fantastic difference as the sponsorship met the costs of staging the event so all of the money raised went to the charity. I'm also grateful to Kelso Racecourse and to Kelso Golf Club for all of their help and support as they provided their venues for free."

Ian Beattie, Chief Operating Officer at Lindsays and an ultra-marathon runner said: "We were delighted to be sponsors of the inaugural Borders Marathon, and I really enjoyed running on the day, as did many of our staff in their Lindsays relay teams."

See you there next year!



We are on the move in Dundee!

Our Dundee office has moved!

Previously at Bank Street, we are now based in a modern, open plan office with ample meeting space for clients and views over the water. A matter of minutes from the city centre and the new waterfront developments, the office is easy to get to.

You can now find us at:
Seabraes House
18 Greenmarket
Dundee DD1 4QB

Our estate agency team are still based at:
15 Whitehall Crescent
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lindsays

A warm *welcome* to....



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