lindsays *life*

Issue 09

Our Services

For you and your family
Care for the elderly
Family law
Financial planning
Private landlord and tenant
Powers of attorney and guardianship
Residential property services
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Trusts
Wills and executries

For Business
Agricultural tenancies
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Dispute resolution and litigation
Debt recovery services
Employment
Family business matters
Franchising
Insolvency and recovery
Liquor licensing and gambling
Renewable energy
Rural services

the *life* of this magazine

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Welcome to the latest issue of lindsays *life*

This edition has a particular resonance for Lindsays because it celebrates both the old and the new, our past and our present.

The new is our merger with RSB macdonald in Dundee. With this merger, which you can read about on page 4, we can extend our services to clients in Tayside, serving all their personal, family and business needs.

The old is our 200th anniversary. Naturally, there has been vast change over 200 years and you can read about our first two centuries on pages 6-9. But much has endured too - not just the Lindsay name, but our culture of developing long-standing relationships, delivering results and having the right staff in the right places.

Our latest recruits, introduced on page 17, will help us maintain those traditions of superb service and results.

Not everything in this issue deals with old stories or new faces. We also examine how to deal with art or antiques in your Will; changes to child support; powers of attorney; and divorces involving farms.

There's advice on how flexible working could allow grandparents to help with childcare. And for anyone involved in running a sporting club, there are pointers on how to save on tax.

I hope you enjoy the issue and find it useful.

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Contents

Cool-headed and *collaborative*, or contested and *stressful?*

Separation is never an easy decision or process, but there are ways of keeping it amicable and adult

Recent research from the Universities of Exeter and Kent underlines the importance of separating couples choosing the right way of sorting things out.

And our own experience shows that the way a separation is dealt with can make a big difference to how quickly issues are resolved and how easily couples are able to move on. Cool-headed is always easier on the family than contested.

There are, broadly, three procedures for resolving family law disputes.

Firstly, court - in some situations court proceedings are unavoidable. However, family law solicitors in general, regard them as the last resort, and couples should aim to stay out of court if possible.

Secondly, there is traditional negotiation. This involves an exchange of correspondence, or sometimes meetings between solicitors, leading to an agreement.

Thirdly, there is the new method of Collaborative Family Law. This takes the form of 'four-way' meetings with the solicitors and their clients present. Occasionally specialists such as financial experts join the meetings.

At the outset the parties agree not to start court proceedings, and instead commit to negotiating agreement on all issues. From one meeting to the next, information is gathered by the parties and their solicitors, to be discussed next time they meet. Normally a complete agreement is reached after four to six meetings.

Collaborative Law has the advantage of being conducted in a dignified manner, as amicably as possible, without the looming threat of court action. It allows the legal, psychological and financial aspects to be integrated into one co-operative process, and can lead to some creative solutions that meet the needs of both parties.

> *"...the way a separation is dealt with can make a big difference to how quickly issues are resolved."*

Research has shown that people using Collaborative Law express a high degree of satisfaction with the process and the outcomes achieved. They welcome the opportunity to resolve matters amicably but with support, and like the fact that all discussions take place in person.

If you are separating, or thinking about doing so, Collaborative Law might work well for you. Our experts are qualified in Collaborative Law and experienced at helping couples through the process.

We can advise you on the Collaborative process and help you to decide if collaboration is the right way to deal with your separation.

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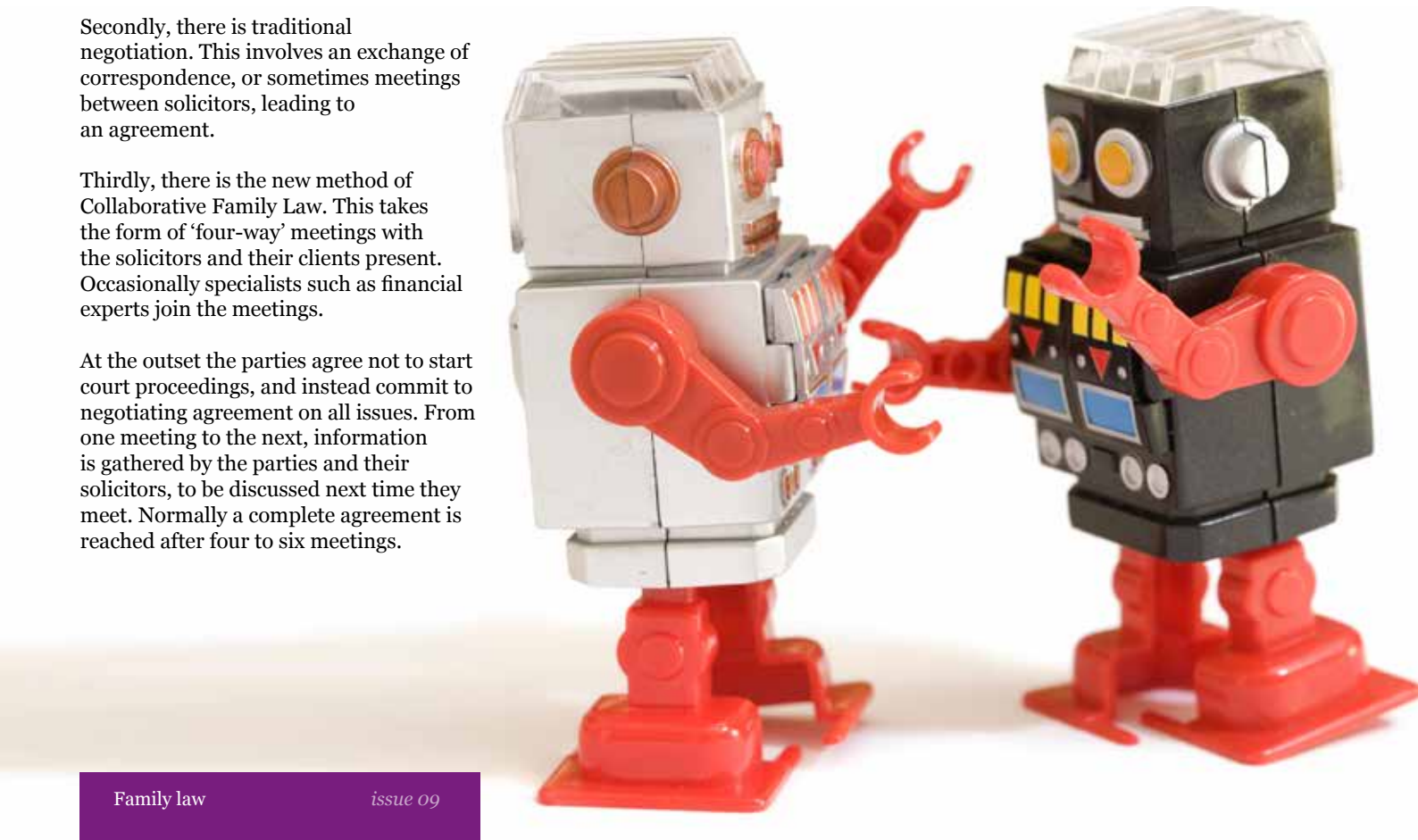

Don't wait until you're '*old*' to make a Will

"I'm 28, I'm not married, I don't own a property but I do have a Will."
If only we heard such statements more often ...

There is a common misconception that you only need a Will in your later years. But any adult who is able to put a Will in place should do so.

Our younger clients are sometimes put off making a Will because they don't think they have much to leave but it's important to realise they already have assets. Some assets, such as a car and the contents of a bank account, are obvious. Others may be overlooked, including life assurance policies or pension plans which could pay out a sizeable sum on death.

However large or small your estate, it is important to specify who you want to inherit it. Unfortunately, unless you stipulate it in a Will, there is no guarantee your family would pass your estate to your intended beneficiaries.

If you die without a Will, the rights of your spouse and children are set out in legislation. On the other hand if you live with a partner and are not married or in a civil partnership, your partner does not automatically inherit. They might have to make an application to the Court to inherit, which can be costly as well as distressing.

> *"However large or small your estate, it is important to specify who you want to inherit it."*

Whatever your age or stage in life, from 18 to 85, having a Will allows you to choose for yourself who would inherit your assets – from a car to your savings – and who should be in charge of administering your estate.

Younger clients sometimes baulk at spending money on preparing a Will – they have other pressing demands on their income. However, the procedures involved in winding up an estate without a Will are expensive.

For example, an application to the Sheriff Court for the appointment of an executor may be required which incurs a fee. And in certain circumstances, an insurance bond, designed to protect beneficiaries from incorrect distribution of the estate, will be required.

Even if you already have a Will, it is important to review it as your circumstances change – perhaps because of an addition to the family, a new partner, a financial windfall, or the death of someone named in your previous Will. It's simple to update a Will, and preferable to having one that no longer suits your circumstances.

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Jute, *jam*, journalism ... and *law*

Dundee, the city of discovery, is also the city of growth for Lindsays as we announce a new merger there with well-known Tayside law firm, RSB macdonald

You may have read in the press a few weeks ago that Lindsays has grown again. In May we announced our plans to merge with RSB macdonald, a well-known law firm in Dundee.

The merger will allow us to extend our services to clients in the Tayside region. RSB macdonald has an excellent reputation in residential property, family law and services to individuals and families, as do Lindsays. With 8 partners based in Dundee and around 30 staff offering services to clients, we'll be ideally positioned to assist clients with all their personal, family or business affairs.

The merged firm will be known in Tayside as RSB Lindsays, from 6 July 2015, and we will operate from Crichton Street in the city centre, and Seabraes House in the West End.

> *"...this merger with RSB macdonald adds to our strengths and relationships in Dundee and Angus."*

Lindsays' growth in Tayside began in May 2012 when we merged with Shield & Kyd, which had offices in Dundee. Just over two years later we relocated to our premises at Seabraes House, and this current merger with RSB macdonald adds to our strengths and relationships in Dundee and Angus.

Those of us at Lindsays who like history are particularly pleased with these growing Tayside connections because our founders back in 1815 originated in Forfarshire. There's definitely a sense of rediscovering our roots.

Commenting on the merger to the press, Alasdair Cummings, Managing Partner of Lindsays, said "We are delighted with the merger. It is a perfect fit, as both firms share the same core values, our personal approach and focus on delivering an excellent service to clients."

And Derek Duncan, Partner at RSB macdonald, noted the new services that they would be able to offer: "We believe the merger will bring further benefits to our clients through access to additional areas of expertise such as employment law, licensing, and corporate and commercial advice for businesses throughout Tayside."

This latest merger means that Lindsays now has 38 partners and over 200 staff in total – quite a step up from the early 1990s when we had 11 partners. You can read more about our growth and development, not just since the 1990s, but right back to 1815, on pages 6-9.

L-R Back - Duncan Mackinnon, Derek Petrie, Chris Todd, Derek Duncan, Ian Beattie **L-R Front** - Maureen Collison, Jennifer Gallagher, Angela Morrison, Alasdair Cummings

Calm returns to the law on Powers of Attorney

Consternation about the validity of thousands of PoAs has been resolved by the Court of Session

A Power of Attorney (or PoA) is a document that gives someone else legal authority to make decisions on your behalf, usually on financial and/or welfare matters. Last year, a court case in Scotland threw into doubt the validity of thousands of existing PoAs, causing consternation in many families and law firms.

The case involved an elderly widow and the validity – or otherwise – of a Power of Attorney she had granted. The court decided the deed was not valid, because it lacked a particular statement expressing her intentions. This, said the Sheriff, made it invalid according to certain sections of the Adults with Incapacity (Scotland) Act 2000, which he applied literally.

> *"The court decided the PoA was not valid, because it lacked a particular statement expressing her intentions."*

So, why the consternation? Because based on the standard applied by that Sheriff, the style of deed on the website of the Office of the Public Guardian (Scotland) (OPG) was invalid, and it was a style which had been adopted in the case of an estimated 282,000 other PoAs registered with the OPG.

The implications were huge. Firstly, it was possible that thousands of people who had appointed others to manage their affairs in the event of future incapacity would have to review their arrangements. Secondly, those who had already lost capacity might be without a validly appointed attorney.

Further confusion arose when a second PoA court case reached the opposite conclusion to the first case. This second case applied a more purposive interpretation of the 2000 Act, rather than a literal interpretation.

Fortunately, the Inner House of the Court of Session resolved the situation at the end of 2014. In another PoA case, it expressly preferred the looser approach of the second case, rather than requiring "prescribed wording" as in the first case. There was a collective sigh of relief, as this equated to authoritative support for the standard form of PoA available on the OPG website, and for deeds based on that form.

The consternation is over, but if you have any questions or unease about an existing PoA, or want to discuss setting one up, do get in touch. The above cases underline the importance of ensuring that a PoA is drawn up in the correct terms well before someone loses capacity, and discussing it with one's family and advisers. To know that your own or your relatives' affairs will be taken care of whatever happens in future gives great peace of mind.

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1815
John MacKenzie Lindsay and Frederick Fothringham establish firm: Fothringham & Lindsay WS

1845
Alexander Howe enters co-partnering contract

1847
Lindsay is appointed as Principal Clerk of Session. Thomas George Mackay joins the firm: **Lindsay, Mackay & Howe**

1815

1838
Queen Victoria is crowned in Westminster Abbey

1848
Queen Victoria leases the Balmoral Estate on Deeside, she then buys it in 1853 for £31,500

Our *200th* anniversary

In 1815, cousins Frederick Fothringham and John Lindsay set up a law firm at 80 George Street, in Edinburgh - a bold undertaking for two 22-year-olds from Forfarshire. Their initial expenses included £12 for carpets and grates and £2 for a writing table

Their enterprise and investment paid off, and not just in the form of the £137 profit that Fothringham & Lindsay WS made in its first year.

As we celebrate our 200th anniversary throughout 2015, we are proud to commemorate this landmark by sharing our journey through our first two centuries.

Our *founders*

The Edinburgh Post Office Directory for 1815-1816 includes an entry for "Fothringham and Lindsay, esqs. W.S. 80 George Street". It looks unremarkable but it is cause for celebration for Lindsays and our clients.

Frederick Fothringham and John Lindsay were 22-year-old cousins from Forfarshire who set up in business together in 1815. The Directory also shows a Mrs Fothringham living at the same address – likely Frederick's mother, since he was unmarried. Initial expenses for furnishing the offices came to just under £15.

John Lindsay remained involved with the firm until his death aged 81. He was described by a colleague as "a man of great ability, ... and most courteous in speech and manner". Of the many lawyers practising in Edinburgh in 1815, he is rare – perhaps unique – in having set up a firm that still bears his name two centuries on. Despite changes of partnerships and structure, the Lindsay name has been constant.

Our *enduring client relationships*

"My father is Donald Angus, and I'm Donald Andrew – it's quite a Highland tradition that you're known by two names. Just before I was christened, I believe Lindsays contacted my parents and said, "Hold on, he can't just be Donald Andrew, because he'll have exactly the same initials as Donald Angus.

"So at the very last minute, John came into my name. That's why I am named Donald Andrew John."

Donald Andrew John is Donald Cameron, Younger of Lochiel. Lindsays (or Fothringham and Lindsay WS, as the firm then was) have worked with his family since the first half of the nineteenth century.

The involvement of the family lawyers in the choice of a son's name seems odd in the twenty-first century, but it's an indication of how closely we can be involved in our clients' journeys through life.

1862
The three Partners (Lindsay, Mackay and Howe) buy 32 Charlotte Square for £3,700 which remains the firm's office for over 100 (117) years (sold in 1979 for £510,000)

1864
Mackay dies, firm becomes **Lindsay Howe & Co** (the firms name remains as such for 100 years)

1873
Lindsay dies 59 years after founding the practice

1876
Alexander Graham Bell's (who was born in the firm's acquired Charlotte Square offices) lawyers file a patent application for the telephone with the US Patent Office

1890
The Forth Bridge is officially opened

1908
John Parker Watson joins forces with Lindsay Howe & Co – this is the first partnership agreement not agreed for life, but initially for four years, then from year to year

1914

Our *premises*

During the firm's first 40 years it operated from various New Town addresses. In 1862, the then three partners bought 32 Charlotte Square. The purchase price was an enviable £3,700.

The firm stayed there for over 100 years. Having bought adjoining premises at 14 and 16 South Charlotte Street, by 1921 the partners owned the whole corner site.

The house at 16 South Charlotte Street was the birthplace of Alexander Graham Bell, the inventor of the telephone.

Our next moves were to Georgian townhouse buildings in Rothesay Place and then Atholl Crescent.

However, a modern law firm needs modern premises, and in 2006 we moved to our current offices at Caledonian Exchange. Modern open-plan offices have improved communication and team-working, and significantly boosted our efficiency.

Other developments in terms of location and premises include acquiring, through mergers, a presence in North Berwick, Glasgow and Dundee.

Our *development*

The story of a long-standing law firm is usually one of mergers and name changes, and Lindsays is no different. Our archives show a lengthy genealogy of firms that have merged with us or asked us to take on their clients. Indeed, Messrs Fothringham and Lindsay originally set up their firm because another lawyer said they were "clever young men", and that since he was "becoming an old man" they were welcome to his business.

Mergers in recent years have seen Lindsays grow from a medium-sized Edinburgh firm to a full-service, modern law firm with offices across Scotland, and from 11 partners in the early 1990s to 38 partners and around 215 staff today.

Some key activity in Lindsays' recent expansion includes:

- A merger with well-established, Glasgow-based Kidstons in 2008, a firm which had a strong reputation in employment, litigation, private client matters and residential property. The westward expansion was a major strategic development for Lindsays – not just a matter of gaining new premises and staff, but a statement of ambition.
- A merger with Shield & Kyd, which itself had nineteenth-century origins, in 2012 was described by Lindsays' Managing Partner, Alasdair Cummings, as "a perfect fit", and we gained our first physical presence in Tayside.
- Another 2012 merger with MacLachlan & MacKenzie of Edinburgh, known for its strength in residential property and private client work.
- Our most recent merger with RSB macdonald extends our services to clients across Tayside.

All our mergers bring new talent and new clients to the firm, and are exciting developments for us. But we don't let the excitement detract from our traditional tenets of relationships, results, approachability and flexibility.

1915

1918
First World War comes to an end

Married women aged over 30 years are given the vote

1926
John Logie Baird gives first public demonstration of the television

1939
Second World War is declared

Two Partners, John Parker Watson Jr and David Blyth Bogle, go to war. Bogle is commissioned to the Cameron Highlanders, and serves with the Royal Artillery in the UK and with the Eight Army in the Middle East (latterly as a Lieutenant Colonel). Both men return after the War

1945
V-E Day (Victory in Europe Day) marks the end of the War in Europe

1952
Queen Elizabeth II succeeds King George VI

1964
Lindsays, Howe & Co merges with neighbours at 31 Charlotte Square – Cowan & Dalmahoy WS, firm becomes **Lindsays WS**

Our *people*

The histories of businesses tend to concentrate on the founders, in the case of law firms, the partners. But just as crucial to success and good service are other staff members - the people who greet clients, deal with the details, or keep the accounts up-to-date.

We've found some evocative accounts of working for the firm. One such was Marion (Maimie) Barron (pictured above), who joined the firm in 1928.

"On 1st October I was interviewed for a typist's job and started that day. I sat in the basement, Miss Clapperton in charge. ... On going home for lunch, I told my Mama that I didn't like it and didn't want to go back, but she, being of the old school, soon told me to get back and not to be stupid."

Maimie Barron did go back after lunch and remained with the firm for many years. Her memories include the marriage of two colleagues, fire watching in World War II, and the annual staff picnics on the first Saturday in June. "Different places were chosen each year, quite a few to the West Coast, Dunoon, Rothesay or Ayr, travelling in a specially reserved rail coach and by steamer," she writes. They are wonderful stories of working life in a different era.

Miss Barron worked in the Cash Room, which was on the street floor of the offices in Charlotte Square. Before World War II, the room was furnished with high sloping desks and 30" high wooden stools.

In those days Lindsays collected rents and feu duties for its clients, and members of the public would come to the Cash Room on quarter days to pay their dues. The front door was kept closed, and answered by the resident caretaker, who after lighting 15 coal fires each morning, then changed into a smart green uniform.

Today we are committed to investing in our people and believe in helping our staff to succeed. In the cases of David Reith and Alasdair Cummings, this meant progressing from trainee to Chairman and Managing Partner, respectively. In other cases, it's meant joining Lindsays as a school leaver and training to become a highly-respected paralegal or solicitor, or supporting staff balancing work and family responsibilities through flexible or part-time working.

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

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

1967
Bogle is awarded CBE

1971
The last gas lamps in Glasgow are phased out and replaced with electric lights

1985
Lindsays joins forces with Hagart & Burn-Murdoch which is the start of a period of major growth for the firm, continuing today

2006
Firm moves to **Caledonian Exchange** – 'a new way of working for the firm'

2008
Firm merges with Kidstons in Glasgow

2012
Two mergers – Shield & Kyd (May) and MacLachlan & MacKenzie (Oct) Lindsays celebrates success at the Scottish Legal Awards - Family Law team of the Year and Residential Property team of the Year

2015 - lindsays today
Offices in Dundee, Edinburgh, Glasgow and North Berwick
- 215 staff
- 118 fee earners
- 38 partners

2015

Our *service*

Ask any lawyers over 50 about their traineeship and they'll balefully recite memories of proof-reading leases and writing out income tax schedules. They'll recall Dickensian rooms of cash ledgers, and documents being sewn up with blue (deeds) or pink (Wills) thread. And that was even in the very un-Dickensian 1970s and 1980s.

Lawyers of the 1980s and earlier also remember the morning ritual of opening the mail to see what had come in from clients, and then dealing with it in a fairly leisurely manner.

Technology has changed all that. The 1980s saw the arrival of the first fax machines, making business a little more immediate, especially for the corporate and commercial teams.

Next came the computer. Alasdair Cummings, our Managing Partner, says the first time he ever had a PC on his desk was in 1994 when he came back to Lindsays after working in London for a few years.

And then there was email. Clients now expect – and receive – faster turnaround times than ever. Though anyone who works in an office occasionally bemoans the constant ping of email, it has transformed our ability to provide our services to clients.

Our *culture*

Alasdair Cummings joined Lindsays in 1986 as a trainee. On his first day, a partner who needed help with a task summoned him up to his office by loudly calling "Cummings" down the stairwell. And one or two of the partners were routinely called "Sir".

Other collegues also remember the more formal office environment of the 1970s and 1980s. As a young solicitor, our chairman David Reith was reprimanded for using the "wrong" door to a partner's office – the one reserved for clients and partners. And partner Callum Kennedy recalls, "When I became a partner, one of the older partners said to me 'Now you're a partner, you may call me by my first name. Do you know what it is?'"

The traditional, 'closed-door' culture was typical in Edinburgh law firms at the time, and it was exacerbated by the physical limitations of having offices in Georgian townhouses. Lindsays' introduction of a more modern culture was helped by the move to open-plan offices at Caledonian Exchange.

One important aspect of the Lindsays culture today is transparency. "When I was a young lawyer, you knew nothing about what was going on – you were maybe told once a year how the firm was getting on," explains Alasdair Cummings.

"We're far more open now. I take the view that we're genuinely all in this together. I'd rather all staff know what we're trying to achieve and how we're going to get there. Communication to me is absolutely key in our business – with our people as well as our clients."

The *Art* of Inheritance Tax planning

Some people acquire art, antiques or other collectibles as a hobby; others through an inheritance or as an investment. Whatever the story behind the collection, it must feature in their inheritance planning

Art and other collections can be a problem for estate planners. The collection may increase the Inheritance Tax liability of an individual's estate, but not provide liquidity to meet the liability if the beneficiaries want to keep it. Is there anything a collector can do to prevent such headaches?

Certainly. If you want it to stay in the family after your death, but still enjoy it during your own lifetime, there are various strategies you can use.

One strategy is to give away the items to the person(s) you wish to receive them but pay a commercial market rent for the right to physically retain and enjoy the items. However, care is needed.

First of all, the usual Inheritance Tax rules apply. If the donor dies within seven years of making the gift, it could become chargeable to inheritance tax.

Secondly, since the donor is retaining the item for their own enjoyment, they must ensure it is not considered a "gift with reservation of benefit"; otherwise the value may be added back on to the estate. The key is to ensure that the rent paid for the item is a commercial market rent, that it is paid regularly and that the records are clear and up to date. A professional valuation and assessment should always be obtained.

Another scenario is that certain items may be deemed by HMRC to be of national interest for national, scientific, historic or artistic reasons and therefore conditionally exempt from Inheritance Tax. The new owner (often the beneficiary) of the item(s) must give undertakings to preserve it, allow reasonable public access to it and keep it in the UK.

The question of how much access to the public is required is negotiated with HMRC directly. One approach is to loan them to a museum or gallery for a certain period of time each year.

> *"If you want your art to stay in your family after your death, but still enjoy it during your own lifetime, there are various strategies you can use."*

It is important to bear in mind that strategies such as these require the advice of a professional – both initially, and with regular checks thereafter. As with other aspects of estate planning, HMRC is continually reviewing the rules and there is no way to guarantee that any strategy (apart from absolutely gifting items) will pay off or be available on death.

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Charitable status could put your sports club in *a different league*

Are you involved in a local rugby, tennis, golf, or other sports club? Your club may be eligible for tax reliefs or new sources of funding

Local sports clubs, from cricket to curling, can qualify for a variety of tax reliefs by registering as a Community Amateur Sports Club (CASC) or as a charity. The tax advantages can be especially valuable if you have ambitions to develop your clubhouse or other facilities.

Many sports clubs gain tax benefits by registering as a CASC with HM Revenue & Customs (HMRC). You can then claim tax relief on income, gains and profits from some activities; Gift Aid repayment from donations; and business rates relief.

To register as a CASC, your club must:

- promote participation and facilities for eligible sports – this must be the main purpose of the club, regardless of ability
- have a formal Constitution (which should be up-to-date)
- be open to the whole community
- be organised on an amateur basis.

Many rugby, cricket and other sports clubs in Scotland gain additional benefits from registering as a charity, rather than as a CASC. The tax benefits for charities are more extensive but there is more regulation imposed.

To qualify as a charity, a sports club must promote public participation. This is one of the charitable purposes set out in the Scottish Charities legislation and is a different test from that applied in England.

The additional benefits from being a charity include:

- special VAT treatment in some circumstances
- gifts of quoted shares and land can be made by both individuals and companies with the benefit of income and corporation tax relief respectively
- the ability to raise funds from public grant-making trusts and local government may be easier than for non-charitable bodies.

One major potential advantage of charitable status is in relation to VAT on the construction of buildings. If, for example, your club wishes to develop its clubhouse, it would be worthwhile seeking professional advice on whether you could gain advantageous VAT treatment from being a charity.

If you or your family do play sport locally, it's well worth looking into whether your club is enjoying the benefits of being a CASC or a charity. Some straightforward legal advice on registration, compliance, governance or constitution could yield excellent results both on and off the pitch.

> *"The tax advantages can be especially valuable if you have ambitions to develop your facilities."*

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Can you *combine work* and *grandchild* care?

When people talk about grandparents helping out with the grandchildren, the traditional scenario involved the grandparents being retired. But with pension ages rising, grandparents may find themselves juggling jobs and childcare

Increases in state retirement age and the possibility of working past that age means that many grandparents now work as well as help with childcare. Flexible working may ease this new combination of career and grandparenting.

Any employee with 26 weeks' continuous service can ask to work flexibly for any reason – provided he or she has not made a request in the past year.

However, grandparents - like other employees - should be aware of two important points. Firstly, it's only a right to request flexible working. Secondly, any changes agreed to your working pattern are permanent: you can't revert to previous hours when your grandchildren start school.

If you are thinking of applying for flexible working, there are practical ways to give your request the best chance of success:

- Set out in writing what the request is for, when it will start and how flexible working might work. Think through problems and how they might be resolved.
- Offer to work a trial period to let your employer see how it will suit everyone.
- Be prepared to discuss alternative arrangements to address your employer's concerns. If you meet your employer to discuss it, take along a colleague to help you put your case.
- If your request is refused, ask for reasons in writing and remember that requests can only be refused on limited grounds. These include additional costs, the inability to reorganise work among existing staff or detrimental effect on meeting customer demand.
- Appeal a refusal if you believe it is inappropriate. Make sure your employer has made the effort to fully understand your proposal and weigh up the needs of you and the business.

If your request is refused, you can make another request after a year, at which point changes in the business may elicit a more favourable response. But taking professional advice at an earlier stage – either before you apply, or before you appeal – could avoid the need for a year's wait.

Remember too that your children (and the grandchildren's other grandparents) also have a right to request flexible working. Synchronised requests may be the way forward: if one request fails, the others may succeed.

> *"Grandparents – like other employees – should be aware... any changes agreed to your working pattern are permanent."*

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Try to stay in *harmony* when negotiating child support

Separating parents who agree child support arrangements themselves without resorting to the Child Maintenance Service can save significant sums

Most parents accept they have a legal responsibility to maintain their children financially. However, many people are unclear about who is obliged to pay child maintenance, and how the rules apply to them. Recent rule changes mean it's more important than ever for parents to understand child maintenance.

It's not just biological parents who are required to pay child maintenance. The obligation also exists for adoptive parents and the legal parents of children born as a result of donor insemination, fertility treatment or surrogacy (though biological fathers of children born through donor insemination may not have to pay).

Another area which is unclear is how child maintenance relates to parents having contact with their children. The obligation to pay maintenance has nothing to do with whether or not non-resident parents have contact with their children, and paying maintenance does not give a right to contact.

The amount of maintenance to be paid can be determined by two means. Parents can agree the amount between themselves, or through their solicitors. Alternatively, an application can be made to the Child Maintenance Service (the successor to the Child Support Agency).

> *"...paying maintenance does not give a right to contact."*

Recent changes mean that, more so than ever, the first option is preferable. In 2014 the Government introduced fees for using the Child Maintenance Service, including:

- a £20 application fee
- a 20% collection fee on top of their usual child maintenance amount for paying parents using the scheme's Collect & Pay service
- a 4% collection fee deducted from their usual child maintenance amount for receiving parents using the scheme's Collect & Pay service
- enforcement charges for parents who do not pay maintenance in full and on time.

Many parents feel confused about the process of determining child maintenance.

Rather than feel confused or financially overstretched by child maintenance issues, it is better to seek legal guidance about your own situation. As well as making your parenting arrangements more amicable, it could save you some hefty Child Maintenance Service fees.

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Getting back *on track* for *Rio*

We are delighted to offer backing to talented and dedicated athlete, Eilish McColgan

Being an elite athlete is fraught with challenges and complications. In this candid and revealing piece Eilish shares her frustrations due to recent set-backs but remains optimistic about her preparation for the 2016 Rio Olympics.

"The summer season is virtually underway. Athletes have been priming themselves throughout the winter. To say my plans have been delayed is an understatement! I had hoped to kick-off my racing schedule over a few longer distances, 5K or 10K, at the end of May - but due to breaking my ankle four months ago, my early season came to an abrupt halt.

Now after further complications, I unfortunately have to undergo surgery to force my ankle bone to heal. Injures are inevitable, not only in elite sport but throughout all levels. Sadly, in elite sport there is a higher risk of injury as we constantly try to push beyond our limits – it's like walking a tightrope! Each injury is an immense learning curve, however, it does allow time to assess things and implement changes to reduce the chance of similar set-backs!

It's extremely upsetting, knowing that I will miss the entire 2015 season, but with the Rio Olympics around the corner, it's vital I make the correct decisions. 2016 is such an important year for every athlete, me included if I want to make it to the Olympics.

I enjoy competitive races where I am being dragged around, as it forces me not to focus on lap times or my perception of tiredness which can make the mind play tricks. Nothing matches the exhilaration of competitive racing, it is a completely different mental dynamic to a training environment. The buzz in a big stadium can't be replicated at your local track and I will definitely miss it. Cross training doesn't achieve the same thrill but my health comes first!

The entire build up to a race is integral to our performance. Approximately an hour before the competition, we register at the call room and race officials complete initial checks. Athlete's competition numbers and vests are inspected to ensure they conform to regulations, and spikes are scrutinized to make sure their size adheres to the rules. It can be a nerve-wracking wait while all competitors are checked but it's important to remain relaxed and centre on your own performance. We are then taken to another room to do our warm-ups where there may only be enough room to sit and stretch, or sometimes we have access to a small indoor area which permits more energetic drills and sprints. Finally, we are ushered onto the track.

Gearing up for these situations while keeping nerves under control is a delicate balance and comes with experience. It's impossible to reproduce this in training, so it's crucial to race frequently. However, it's possible to race too often which can cause fatigue. Also, training is reduced when preparing for a race, so if repeated too often it can mean missing quite a lot of training which obviously reduces peak fitness levels.

My goal for this year had been a top 6 finish at the World Championships in Beijing, China in mid-August. I achieved 10th position in 2013 so thought this would be well within my range. Realistically, I've had to modify this – so it is now to return to running, pain free by the end of August. I need to ensure my body recovers well enough to avoid being in this situation again."

> *"As I am constantly reminded: It doesn't matter how many times you fall down; what matters is how many times you get back up again."*

Spring *blooms* into a bright summer for the property market

This spring brought plenty of scope for uncertainty in the property market, with the build-up to the General Election and the change from Stamp Duty. How has this affected house prices?

Figures released in April 2015 by the Nationwide suggest that house prices across the UK are resuming an upward trend. Between March and April, prices rose by 1% - the largest monthly rise since June 2014. And the annual pace of growth increased to 5.2%, the first time this measure has risen in seven months.

North of the border, that positive story is echoed by research by the Edinburgh Solicitors Property Centre (ESPC). It commented: "The first quarter of 2015 statistics show a very strong start to the year throughout East Central Scotland as a whole. The average house price for this quarter in the area is up 11% year on year and now stands at £207,618, compared to £187,287 in the first quarter of 2014."

The Glasgow Solicitors Property Centre's (GSPC) market reports for the first quarter 2015 also showed price rises, and similarly the results unveiled by the Tayside Solicitors Property Centre (TSPC) for the same period paint a positive picture with increased prices and total value of sales.

These results show things have moved on swiftly since the market disruption around the time of the Independence Referendum in 2014. The prospect of the May General Election did not have the same impact on the property market as previous elections. It seems unlikely that the outcome will have a huge impact on the market but the likely push for further devolved powers for Scotland could well affect the property landscape.

Reasons for the growth include the change from Stamp Duty Land Tax to Land and Buildings Transaction Tax, as well as the greater access to pensions, and the continuing Bank of England policy of keeping interest rates low.

In addition, the reduction in the tax liability for those purchasing below £325,000 has had a major impact on activity levels. First-time buyers have been encouraged into the market and investors have returned in significant numbers.

Looking forward, there seems to be a lack of stock in certain areas, and this, coupled with high demand, continues to drive prices higher. Some rural areas are seeing more stable conditions but there are signs of positivity in most geographical locations. Of course, each individual region or even neighbourhood has its own story in terms of prices and demand.

> *"In addition, the reduction in the tax liability for those purchasing below £325,000 has had a major impact on activity levels."*

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What if life on the *farm* doesn't end *happily ever after?*

Divorce involving family farms can be complicated, and can threaten generations of stewardship. Prevention is always better than cure, and ring-fencing certain assets can help

Divorce is always stressful, and especially so if the settlement involves a family business. One family business scenario that is very relevant in Scotland is divorce or separation involving farms.

One difficulty with divorces involving farms concerns gifted or inherited land which has been passed down through generations. Under Scots law any asset that is gifted or inherited from a third party is not matrimonial property, and will not be part of the matrimonial pot to be divided upon divorce.

The rationale is to distinguish it from the property acquired by a couple through their efforts during the marriage. Often parents assume their children as partners in the farm and gift them part of the land. To protect the asset it would have to be made clear that it was an outright gift.

The difficulties arise because there are a variety of ways in which gifted or inherited assets can be converted into matrimonial property during the marriage. This could include a restructuring of the farming business, quite often for tax planning reasons. One example is a spouse may be made a partner in the business or is gifted a share of the land.

Although it's a truism, prevention is better than cure. Long before any business restructuring or marital disharmony occurs, a Prenuptial Agreement or indeed a Post Nuptial Agreement can avoid uncertainty.

This allows the ring-fencing of certain assets, usually the interest in the farming business, the land and any future gifted or inherited land. Quite often, the extended family will request that a couple enter into an Agreement to give them reassurance that the farm will not be at risk in the event of a future divorce.

In Scotland, a Prenuptial Agreement is considered binding and enforceable if fair and reasonable at the time it was signed. It is a worthwhile investment when compared with the costs involved in a complicated divorce that could jeopardise the family farm.

And even if the time has passed for a Prenuptial Agreement, it is essential to seek legal advice on the possible matrimonial consequences of any restructuring of a farming business. Divorce may seem unlikely at the time, but the possibility should never be ignored.

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