

lindsays *life*

Issue 10



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
Tax
Trusts
Wills and executries

For Business

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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 tenth issue of *Lindsays life*.

As the Lindsays team greeted 2016, it was exciting to think that the firm is now entering its third century. We do so stronger than ever. In 2015, 10 new partners and 15 lawyers joined the firm and our Dundee office doubled in size following our merger with RSB Macdonald.

Our new partners and staff will support clients across many aspects of their lives in 2016, and we introduce some of them on page 16 and 17.

In celebrating our 200th anniversary in 2015, we wanted our bicentenary to benefit the wider community. The Lindsays 200 initiative saw staff and partners invest over 350 working hours in causes that matter to them. There is an update on pages 8 and 9.

Our community activity will continue in 2016 with ongoing support for the Scottish Cross Country Season, the Tayside Tennis Leagues, The Heather Trust and charities such as SAMH, as well as others that our Lindsays 200 volunteering saw us supporting.

Although 2016 is fully fledged, and the time for New Year resolutions is past, it is never too late in the calendar to resolve to do things better. I hope this issue of *Lindsays life* will help you do this.

Paperwork is a good place to start, and on pages 2 and 3 we offer suggestions for organising your legal and financial papers.

Other suggestions on how to do things better include articles on using mediation to handle family or business disputes or handling a divorce. There are also business health check ideas on page 11.

Among the other topics covered are seasonality in the property market, proposed changes to succession law and Wills and the responsibilities of charity trustees.

I very much hope you enjoy this issue.



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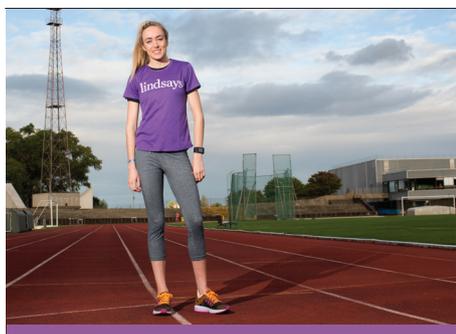
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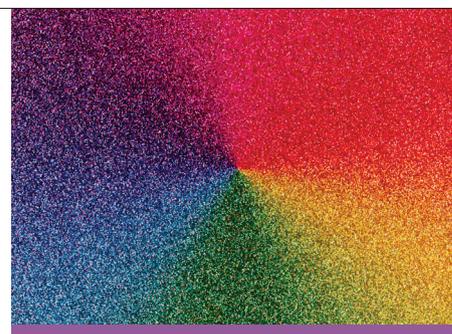
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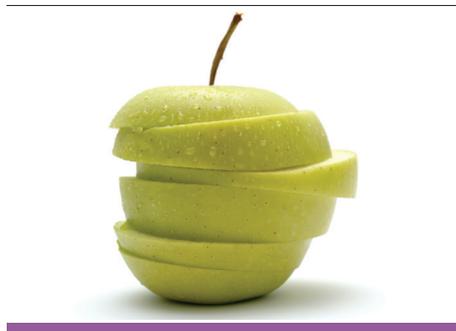
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A *resolution* for 2016? Put all your paperwork in good order

Sorting through piles of paperwork is an unwelcome task for Executors – either because they cannot find key documents, or because there are mountains of superfluous papers. You can greatly ease their task by having the right papers in the right places.

As we grow older, we tend to amass ever-growing piles of paperwork. Bank statements, insurance documents, tax certificates – knowing which to keep and which to shred is often difficult.

On the one hand, the paperwork takes up too much space. On the other hand, the absence of the right papers or instructions will complicate the process of dealing with someone's death.

Keeping the right papers (including online passwords) in the right places will make it easier – and cheaper – for your family to deal with your funeral and Will. And long before that stage, dealing with old

paperwork is a useful way to de-clutter. Therefore, we have compiled a checklist of which papers you should retain and for how long. We also highlight the information your family would need to access readily when you die or need to have your affairs managed by someone else.

When organising your affairs, it is useful to regard your paperwork from someone else's perspective. Try to put yourself in the position of a family member or solicitor sorting through your papers. For example, is your filing system simple to understand? And how will people access online accounts or investments?

Managing financial paperwork

Bank statements and tax certificates:

These should be held for around six years. Although HMRC can, in some circumstances, look back further than this, it is rare for this to happen. At a minimum, bank statements should be kept for two years following the end of the tax year to which they relate.

Investments: Nowadays almost all shareholdings are held in uncertificated form. It is desirable to keep a written list of all your investments, noting which holdings are held in certificate form and which are not. Clearly, it is important to keep the list up to date.

Old investments: Once an account or investment has been closed and any capital gains tax and income tax resolved, it is best to throw out all the old paperwork. Retaining papers that relate to old investments will add to the task of an executor or solicitor if they have to ascertain if the investments are still active or not.



Utilities: It is useful to keep a note of all your providers for gas, electricity, telephone, internet, and the like, along with account numbers. You do not need to retain old bills.

Insurance: Original life insurance policy documents should be kept indefinitely. Other insurance documents should be stored safely for as long as the policy is in place.

Digital assets

Access to online accounts: Keeping a record of your digital assets is as important as keeping paperwork safe. There is a delicate balance here between security and enabling your Executors to have access to any passwords they will need.

Social media: Facebook now provides an option for an account to be deleted after someone's death, or for the account to be

left up as a memorial. In the latter case, you should nominate a person to manage the account.

Dealing with a death

Funeral plans: Many people prefer to write down a funeral plan rather than discuss it with family. If this is the case, be sure to file it in an obvious place, perhaps with a copy of your Will and Power of Attorney.

It is a good idea to ask your solicitor to hold copies of your principal documents, including a funeral plan and lair certificate.

Certificates: Birth, adoption, marriage and death certificates should be kept safe and indefinitely, in an obvious place.

Your Will: Having a valid Will saves family members from having to write to every potential beneficiary under intestacy, put what is called a Bond of Caution in place,

and apply to the Court to have an executor appointed. The cost of administering an intestate estate is generally much higher than if there had been a valid Will in place.

Your general approach

Matters such as funeral plans or Facebook memorials are deeply personal and people understandably find them difficult to discuss. Nevertheless, the importance of having your affairs organised cannot be overstated. Following the death of a loved one, family members are likely to be emotionally vulnerable, and it is worthwhile doing everything possible to ease the tasks ahead for them.

If you are able to discuss with one or two family members where your papers are kept and who your solicitor is, and to have your paperwork in shipshape order, they will have good cause to feel grateful to you.

“ Try to put yourself in the position of a family member or solicitor sorting through your papers. For example, is your filing system simple to understand? ”

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How do you *split a field four ways?*

Under proposed new Scottish succession laws, it may no longer be possible to pass on a farm or estate intact. What can farmers or landowners do?

In 2015 the Scottish Government published a consultation on succession law in Scotland. It's generally agreed that the rules need to be updated, and many of the proposed changes on intestacy, disinheritance and cohabitants will usefully simplify the current law.

“ We recommend keeping a close eye on developments in the new law. ”

However, some proposals could have serious implications for the rural sector. Put very simply, the problem arises from a recommendation to remove the distinction between heritable property

(land and buildings) and moveable property (livestock, machinery and money).

At present, if someone dies, their children and spouse (or civil partner) have a claim on the moveable property in the estate, their 'legal rights', regardless of the terms of the Will. But they have no claim on the land and buildings, meaning these can be passed on intact to one family member.

With the distinction between heritable and moveable property removed, the legal rights of the spouse and children would include the value of land and buildings as well. For some families, this could be the difference between a claim to tens of thousands and hundreds of thousands.

If there are insufficient assets available to cover the legal rights, a farm might have to be broken up to pay the claims. Or a farm might have to support multiple owners, making it financially unviable and causing family fallouts. Though there has been a call to exempt agricultural units from the proposed arrangements, the Scottish Law Commission recommended against the exemption.

At present, the proposals are not yet law but they are expected to be included in the

next phase of the Succession (Scotland) Bill. The impact of the changes on a farming family will vary depending on the circumstances of each family but if the difficult discussions haven't been had yet, they are likely to become more difficult in the future.

The changes proposed will remove the testamentary freedom of farmers and landowners, and may necessitate new provisions or restructuring of the family business. However carefully you have planned your current succession arrangements for your farm or estate, they may be open to challenge if the changes come into force.

We therefore recommend keeping a close eye on developments in the new law, and taking advice on whether any changes will affect your family. It's not just the progress of the Land Reform Bill that farmers and landowners need to follow.

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Mediation *beats court any day*

Whether your dispute is commercial, matrimonial or financial, mediation offers better tools for solving it than litigation.

Mediation has so many applications these days that clients come to us with many different preconceptions of what it is and when to use it. Some think of it purely in terms of divorce and childcare arrangements; others see it as a tool for dealing with business disputes. The truth is it's both, and more besides.

In family law, mediation permits a less adversarial approach than court, with the mediator acting as an impartial third party, helping the parties to communicate, overcome sticking points, and find solutions they can live with.

without having to go through the greater upheaval of finding new tenants or a new place to live.

The emphasis on outcomes that work for both parties makes mediation a useful tool for businesses. In particular, it can preserve relationships that would be damaged by litigation. A typical application might be a dispute between a business and a regular supplier, where they need help to settle the issue but want the possibility to continue to do business together.

In all these situations, whether they involve families, landlords or businesses, mediation also offers the possibility of novel or flexible solutions. This could be anything from an apology in a business dispute to a contact arrangement that reconciles different parenting styles. In contrast, a court is restricted by the legal framework as to what outcomes it can impose.

“ Some think of it purely in terms of divorce and childcare arrangements; others see it as a tool for dealing with business disputes. The truth is it's both, and more besides. ”

The effectiveness of the process surprises many participants. Figures from a family mediation programme in Iowa in the US found that 95% of participants in mediation doubted they would make any progress before they started. But it enabled 71% to reach agreement in some or all of their issues.

Other common uses for mediation are in disputes over money owed, or in landlord and tenant cases. A recent example of the latter was where mediation was used to prevent an anti-social behaviour problem escalating into eviction or litigation. The parties were able to resolve the issue

It used to be, according to the old saying, that disputants would want their day in court. Now if you want to have your say or be heard in a dispute, it's usually cheaper and quicker to steer well clear of court. Mediation is an excellent way to effect that.

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Eilish's motivation - *Picturing a bright future*

Running has been missing from my life for almost a year now and instead of losing faith, my time away from the sport has helped relight the fire in me. Every hour spent in the pool or on the cross-trainer is a step towards getting back to what I love – running.

A question I'm often asked is: 'how do you keep motivated?' and I understand fully why it keeps coming up. But for me, running is not only a hobby - it's all I've ever wanted to do.

Don't get me wrong, it's been enormously challenging at times. But any doubts are swiftly pushed away by a determination to prove myself. Not to others but purely to myself. To prove that the hard work is worthwhile. Making the GB team this year would cement that.

My boyfriend bought an old, rusty cross-trainer a few years ago and the box room has been turned into my own little gym. Within my little cross-training retreat, I have a few motivational things pinned on the walls as a reminder of my goals – my Olympic vest, alongside three small photo frames.

The first frame holds a hand painted postcard from Iten, Kenya. I've been to Iten three times and absolutely love it. Every morning, the local dirt track becomes a human daisy-chain of 70-80 Kenyan athletes, all whizzing around the track. I can almost guarantee that within that train of athletes there will be an Olympic or World Medallist or a current/former World Record Holder. The standard is extraordinary and found nowhere else in the world.

This picture is a personal reminder that if I'm not working hard, someone else will be.

The second is a very old postcard of my family home. I was very fortunate growing up and had everything I could wish for, including a dream family home in the

Scottish countryside with acres of land to play in. Unfortunately, a few years ago, things changed very drastically in my family, and the house and family business were lost. I recently revisited our old house which was heart breaking as it has lain vacant for years and is now completely derelict. It bears no resemblance to the amazing house filled with happy memories that it once was.

This small postcard reminds me never to take anything for granted. This goes beyond my athletic ambitions. Whatever career I choose I want to create a concrete and stable life.

Inside the third frame is the first verse of a small poem – Don't Quit. When I was 18 and about to embark on university life, I suffered terrible growing pains and questioned my future in the sport. I went to see a well-renowned physiotherapist who was also a close family friend. He realised I was becoming a little disheartened and gave me a bit of paper from his own training diary with the poem.

This verse has been stuck to the back of all my training diaries as a reminder that although things get tough, it's never the end of the world.

As well as using those pictures for motivation, I need to focus on the big picture and acknowledge how far I've come in the last five months. Granted, it's not the smooth run up I would choose heading into the Olympic year but I am determined to continue making progress. It doesn't matter how small the steps are at the moment as long as they're heading in the right direction.

Lindsays is proud to support talented athlete Eilish McColgan



In good governance we trust

With complaints about governance on the rise, charity trustees need to be aware of good practice and management.

Over 180,000 people in Scotland are trustees of charities. The groups they support range from community sports clubs or Brownies packs right up to national care providers. Altogether over 24,000 charities are registered in Scotland.

The Office of the Scottish Charities Regulator (OSCR) is increasingly highlighting the need for good governance in charities of all sizes. This follows well-publicised problems in charities such as Kids Company, in England, as well as examples of poor governance closer to home.

It is not just the trustees of high-profile, national charities who are expected to ensure good governance. Whether they run a Scouts pack or a large university, trustees are subject to legal duties and responsibilities which they must carry

out. Moreover, good governance in charities is not just about adhering to legal requirements or avoiding financial mismanagement. If you want your charity or community group to achieve its aims and do most good, it needs to be well run.

A question we are often asked is, what does good governance mean for charities of different sizes? And the answer is, it can involve many things! But some of the key aspects that trustees may wish to learn about include:

- their legal duties
- their financial responsibilities and the potential implications of mismanagement
- the different types of charitable entities, such as Scottish Charitable Incorporated Organisations (SCIOs), and which would be most appropriate for their group.

Good governance encompasses management good practice, as well as legal requirements, for example:

- managing relationships with staff
- ensuring a balance of skills and experience across the different trustees

- having the optimum number of trustees
- embedding good collective decision-making processes.

This is by no means an exhaustive list, but it does indicate where trustees' thoughts should be heading. Of the 337 complaints about charities made to the OSCR in 2014/15 (up 25% on the previous year), a quarter related to governance, making this the most frequent cause of complaint.

The OSCR website has advice and documentation on good governance, but even more helpful may be governance and trustee training tailored to your own charity. With the expectations of trustees' performance continuing to rise, this is worth consideration.

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200 hours of volunteering



“We were delighted when staff at Lindsays came forward to volunteer for Sense Scotland’s ‘Sense of Summer’ activity days in Lanarkshire. We couldn’t have managed without them.”

**Eddie McConnell,
Director of Development**



“Lindsays have been a fantastic support to Glasgow City Mission in our quest to provide practical care to people in Glasgow affected by homelessness, poverty and isolation.”

**Graham Steven,
Marketing & Fundraising Manager**

“ To celebrate our bicentenary in 2015, we asked our staff and partners to devote 200 hours to supporting community groups of their choice. Over the next 12 months, 200 became 350-plus.

Last year we celebrated our 200th anniversary, looking back to 1815 when Frederick Fotheringham and John Lindsay set up a law firm at 80 George Street, Edinburgh. Two centuries on and Lindsays is a 40-partner full-service firm employing over 220 people.

There is much to celebrate in our first 200 years – loyal clients, talented people, good stories, the growth of the four Scottish cities and towns where we are based, and our tradition of excellent service. But rather than focus our bicentenary on looking backwards, we wanted it to benefit the communities that have supported us over the past two centuries.

From that wish came the launch of Lindsays 200 in January 2015. The objective was simple – to support local community projects by enabling our people to invest time in causes which matter personally to them.

Some of the organisations we have supported:





grows to 350-plus

In fact, our staff and partners already do that, working with a variety of charities and organisations in their spare time. For Lindsays 200 we set ourselves a target to invest 200 hours during the working day, to use our passion and skills to support causes that matter to us.

With our third century about to begin, we have been delighted with the outcomes of Lindsays 200. The level of enthusiasm and commitment from individuals, teams and offices has gone way beyond our initial expectations, and we have far surpassed our 200 hours target.

Teams worked together to identify local communities they could help, and groups from different offices swapped their business suits for tools, paint brushes and wellingtons, to support various charities. And along the way, our staff have learned some new skills, from Christmas wreath-making to gardening and tackling giant inflatables in a knock-out challenge.

With over 350 hours of firm time invested and over 120 Lindsays people from across our offices involved, 28 projects have been delivered and support given to 19 different charities and local community organisations.

Good law firms are always embedded in civic life, and it's been a pleasure to be able to make a difference with our Lindsays 200 volunteering effort.

Alasdair Cummings
Managing Partner, Lindsays



“A huge thanks to Lindsays’ wonderful volunteers for the help in painting The Yard’s Under 12s Club in Dundee.”

Paul Hayllor, Project Manager



Scottish charity number
SC 019724

“CHAS would like to say a big thank you to everyone at Lindsays for their ongoing support, in particular to staff for taking time to come and volunteer at the hospices. We couldn’t provide the support to the families in Scotland for children and young people who have life shortening conditions without the amazing support of companies like Lindsays.”

Gillian Levy, Relationship Manager



Business, marriage and the perils of *unintended consequences*

If you have a family firm, your business and matrimonial arrangements may be more entwined than you think. Some business decisions may need to be checked by a family lawyer.

Separation and divorce are always painful and disruptive whatever the circumstances. But they can cause even more upset if you or your family own a business.

In this situation business decisions that may have been taken for taxation or commercial reasons may turn out to have unintended – and expensive – consequences in the event of a relationship breakdown.

“ Having your business and tax planning decisions checked by a family lawyer...could safeguard the assets. ”

Take one recent example of a sole trader advised by his accountant to change to being a limited company shortly after his marriage. The rationale was that incorporation would be more tax-efficient and limit his financial liability. Unfortunately, when the client later divorced,

he found that the decision to incorporate meant his business was part of the matrimonial assets. This potentially entitled his spouse to up to 50% of its value.

The company owner felt particularly frustrated that this possibility had not been mentioned by his tax adviser at the time he formed the company.

Another recent example concerns a family business jointly owned by a couple and their son. On his marriage, his new wife was gifted shares in the company. Later on, when the marriage foundered, there was disagreement about whether the shares were part of the matrimonial pot and how much the wife's holding was worth. Since the business was a private company and therefore difficult to value, they had to call in forensic accountants, with the bill running into thousands of pounds.

There are plenty of disputes involving business and family breakdown, too numerous and often too complex to include here. But some tales and expenses could have been avoided if the spouses had taken advice from a family law solicitor and had entered an agreement regulating what should happen in relation to the restructured business were they to separate.

If you think of the old advice about not letting the tax tail wag the business dog, it's a similar story with matrimonial law. It probably does not make the most commercial sense to base all your business decisions on ring-fencing your assets. Nevertheless, if you are involved in a family business, the cases above illustrate the wisdom of having your business and tax planning decisions checked by a family lawyer. It could safeguard the assets – and even the future – of your business at a later date.



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Is your business *ready* for the *new Living Wage*?

Small businesses may be concerned about the introduction of the National Living Wage in April. What are their options?

In April 2016, the mandatory National Living Wage will be introduced in the UK. It will be set at £7.20 an hour for workers aged 25 and above, 50p higher than the current National Minimum Wage.

The problem for many employers is not the affordability of the basic wage, but the knock-on costs of overtime or night shifts. As a result, small businesses, from

“ If you want to change any contract terms, seek advice on what procedures to follow. ”

start-ups to generations-old bakers and butchers, are concerned about their ability to weather the change. What are their options for balancing their books?

The first option is simply to pay the new wage without further changes, attempting to turn higher salary costs into higher productivity.

A second option is to limit the use of overtime or move staff from night shifts to day shifts. However, this may limit employers' ability to serve clients or grow the business.

A third option is to vary staff contracts, for example, reducing overtime rates from double time to 1.5 time. This is where

the warning bells start ringing. Employers who want to vary contract terms such as overtime rates must follow strict legal procedures such as consultation with staff members. Failure to follow these procedures can lead to debilitating employment law disputes.

The options for each employer to deal with the Living Wage are different, depending on their financial situation, longer-term prospects, and employee relations. If you want to change any contract terms, seek advice on what procedures to follow. The cost of this advice should invariably be cheaper than dealing with legal disputes.



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Does your business need a legal healthcheck?

Employment contracts are not the only area of business where a legal healthcheck or advice can prevent later problems.

Other areas that can benefit from a check include:

- Standard terms and conditions: are they fit for purpose?
- Constitutional documents: are your articles of association, shareholder agreements or partnership agreements still appropriate?
- Property: if you rent property, are you aware of critical elements in the lease concerning repairs or key dates?
- Intellectual property: are you adequately protecting your name and products?
- Funding: should your finances be restructured or could you grow the business with more funding?

Insights into all these areas could help you plan better for the future of your business. Our Corporate team can offer expert advice and have a sound knowledge of the commercial landscape.

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Gauging the *property market* in 2016

Prospects for home buyers and sellers in Scotland are good for 2016, with the dashboard indicators looking healthy and the market becoming less seasonal.

Recent news on the housing market has been bright, a change from the wintery weather besetting Scotland. Figures before Christmas showed mortgage lending at an eight-year high.

On Tayside, the 2015 sales figures look positive. The flats sector, which is generally a good indicator of the market mood, is buoyant this year. As Dundee benefits from the £1bn investment in the waterfront redevelopment, demand is apparent in different neighbourhoods in the city, and not just for the new-build properties on the waterfront.

According to the traditional 'rules' of the housing market, the end of winter should see a flurry of home improvements, as people prepare to sell their home in early spring. But experience suggests the housing market is no longer as seasonal as it once was (see "Winter not a time to sell?" case study).

Thanks to online virtual tours and downloadable home reports, rain and

snow no longer keep prospective buyers away. And sellers have realised the benefits of taking a different approach. They recognise that it's often possible to generate a quick sale by putting a home on the market when the property websites are relatively quiet.

And even the quiet periods in the property market were never completely silent. Life changes such as relocation, downsizing and divorce do not always wait for spring. All these factors mean it may be advisable to buy and sell at times that suit you, rather than following the 'rules' and waiting for spring.

It is also worth remembering that regardless of the percentage-point ups and downs in house price data, finding the right property or price is usually more about good advice and local knowledge. Whether you are in Tayside, the Lothians or elsewhere in Scotland, location-specific insights into what's in demand and what's available will always be more useful than a mountain of statistics.

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Winter not a time to sell? *Not necessarily...*

Late November was not traditionally considered a good time to market a property. Yet when Lindsays put on the market a two-bedroom flat in Edinburgh's West End on 23 November, there were over 60 viewings within a fortnight and 28 offers at the closing date. The top offer was more than 20% higher than the valuation.

Though this is just one example from hundreds of house sales throughout the year, it does illustrate that there are no hard and fast rules about the best time to buy or sell a property.

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Divorce should *focus* on the *future* not on past faults

Proposed legislative changes in England and Wales have highlighted two important lessons for anyone going through a divorce

The British media love divorce cases – they often provide intriguing glimpses into the lives (and finances) of the rich or famous. However, for the Scottish aficionado of marriage breakdown stories, there's a health warning: since matrimonial law in Scotland is different to that in England and Wales, never assume that anything you read about an English divorce case or legislative change will apply north of the border.

One recent media topic is a proposal to introduce 'no fault' divorce in England and Wales. Currently, a would-be divorcer must show the marriage has broken down irretrievably, because of one

party's adultery, unreasonable behaviour or desertion, or because the partners have lived apart for two years (five years if one of the parties doesn't agree to the divorce). The proposed change would remove the need to use these grounds.

However, in Scotland, the grounds for divorce are different – the separation periods are one year if both partners agree to divorce, or two years if they don't.

The difference is not just a small matter of numbers. With shorter separation times allowed, 95% of divorces in Scotland are granted on these "no fault" grounds, whereas in England and Wales 53% of divorces initiated by men and 68% initiated by women are on the grounds of adultery or unreasonable behaviour. The law in Scotland opens the way for divorce to be a less accusatory process.

Another difference in Scotland is that financial settlements between spouses must be concluded before the divorce, whereas the grant of divorce in England may precede the financial settlement.

Media stories of spouses returning to court post-divorce to renegotiate a financial settlement may not be possible in Scotland.

“ The law in Scotland opens the way for divorce to be a less accusatory process.”

There are two pieces of advice to take from this. The first is to be wary of what you read in the press, but you no doubt knew that already.

The second is more specific to divorce. The Scottish system of divorce, where the financial negotiations precede the divorce settlement and where it is easier to divorce without attributing blame, is often a more constructive process for those involved.

Clearly, there are still emotions and stress involved in divorce in Scotland, but there is less legal emphasis on fault-finding and more focus on future arrangements – not so much a post-mortem of things done wrong as a blueprint for moving on. A good adviser will help create this more constructive mindset.



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What *to do* if someone *dies*

It is something that none of us wants to think about, but something we may well have to do one day: dealing with the practicalities when someone dies.

With death often described as the 'last taboo', many people are unfamiliar with the processes that require to be carried out after the death of a loved one. But as long as you understand the basic procedures, there is plenty of help available.

Registering the death

In Scotland a death must be registered within eight days with the Registrar of Births, Deaths and Marriages, and the address of your local registrar easily found online or in the phone book. Many registrars' offices have appointments systems, so you will need to phone ahead. You will need to take with you:

- the medical certificate from the doctor or hospital showing the cause of death
- the deceased's birth certificate and marriage/civil partnership certificate (if you have them).

The person registering the death does not have to be the next of kin. It could be another relative, someone who was present at the death, or the deceased's executor or other legal representative.

The requirements for registering a death in other parts of the UK are slightly different (for example, the time allowed to register the death), so you would need to check this if the death happened in England, Wales or Northern Ireland.

“ *If the deceased has left instructions for his or her funeral, this will ease dilemmas over anything from the type of coffin to the choice of hymns or poems.* ”

Arranging a funeral

Most families use a funeral director or undertaker to arrange a loved one's funeral, though there is no obligation to do so. You may be able to arrange a cremation or burial direct with your local authority, though this will clearly involve more work at a difficult time.

If the deceased has left instructions for his or her funeral, this will ease dilemmas over anything from the type of coffin to the choice of hymns or poems. Though family members will naturally want to do everything possible to meet the deceased's wishes about the funeral, they are not legally required to implement them if they are not feasible or are disproportionately costly.

“ *When sorting out the deceased's affairs, professional help is recommended.* ”

Dealing with the Will

There is no need to involve solicitors when it comes to registering a death or arranging a funeral, but in sorting out the rest of the deceased's affairs, professional help is usually recommended.

The deceased's Will, if there is one, will name an executor, and he or she should take the lead in dealing with the solicitors. It may be possible to take along a family member or friend for support, but it is advisable to check with the solicitor first.

For the first meeting, the executor should take the death certificate, the original Will and the title deeds to any property owned by the deceased (although these may already be held by the solicitor). The solicitor will tell you what other paperwork is needed, from bank details to share certificates to vehicle registration documents.

Often, before any property from the estate can be sold or transferred or money from bank accounts and investments released, the executor has to obtain a Grant of Confirmation (known as Probate in England), a formal court document authorising the executors to deal with the estate. Your solicitor will help with this.

To obtain a Grant of Confirmation, the solicitor must prepare a detailed list of everything the deceased owned, with precise values at the date of death. This can be a laborious process, and is much helped if the deceased had their papers in good order before their death (see the article on page 2 of this issue).

“ *The deceased's Will, if there is one, will name an executor, and he or she should take the lead in dealing with the solicitors.* ”

The above is a greatly abbreviated version of the tasks to be done after someone's death, but it does give you an idea of the duties involved. A more detailed account is available on the executries page of Lindsays website (lindsays.co.uk/services/for-you-and-your-family/executries). This guide tells you everything from who to inform about a death, to the paperwork you need to show a solicitor, to the procedures for dealing with a 'small estate' worth less than £36,000.

“ We can help with sympathetic, practical advice to cope with the burden of paperwork and legal processes at a difficult or emotional period. ”

All these legal and administrative requirements can be daunting, especially at a time when you may not have an appetite to deal with them. That is where we can help with sympathetic, practical advice to cope with the burden of paperwork and legal processes at a difficult or emotional period.

Clare McCarroll
Partner, Private client

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A warm welcome to...

We are delighted to introduce two new partners who joined Lindsays in October



Brent Haywood - Partner
Dispute Resolution, Edinburgh

Brent Haywood joined our Dispute Resolution team in Edinburgh

Brent is one of Scotland's leading litigators, a Solicitor Advocate and mediator, described by Chambers and Partners 2015 as "accomplished" and by The Legal 500 2015 as "a clear communicator, attentive listener and a shrewd advisor".

He has a strong track record in intellectual property, pension disputes, procurement challenges and regulatory matters such as bribery and proceeds of crime.

He said: "I am excited to be working with Lindsays as it is a growing, independent Scottish firm that always strives to foster strong relationships with its clients and contacts – the personal touch genuinely matters. That ethos chimes with my values and that is why I wanted to join the partnership."



Grant Johnson - Partner
Private Client, Dundee

Grant Johnson joined RSB Lindsays Private Client team in Dundee

Grant is an experienced private client partner. He specialises in advising a wide range of individuals and families in relation to wills, trusts, executries, inheritance tax planning, and issues affecting elderly clients such as powers of attorney and guardianships. He is also involved in the setting up and ongoing administration of a number of charitable and non-charitable Trusts.

Prior to his career in law, Grant was a professional footballer. He played as a midfielder and began his career with Dundee United before moving to Huddersfield Town.

He said: "I am delighted to be working with such a reputable and forward thinking firm that is investing in, and developing the services they offer to individuals, families and businesses throughout Tayside. RSB Lindsays is a great fit for me."

“ We are delighted to welcome Brent and Grant to the firm.

Brent is an excellent addition to our growing partnership and his specialist expertise will allow us to continue to deliver an excellent service to our commercial clients.

Grant's appointment reflects our commitment to further develop the service we can offer to individuals and families. ”

Alasdair Cummings,
Managing Partner





Andrew Boccoli - Associate
Construction, Edinburgh



Kathleen Gaughan - Trainee Solicitor
Dispute Resolution & Litigation, Edinburgh



Jean McAlpine - Solicitor
Residential property, Edinburgh



Julie Malone - Solicitor
Residential property, Dundee



Laura Flounders - Paralegal
Commercial property, Edinburgh



Pamela Dobson - Solicitor
Family law, Dundee



Leanne Gordon - Solicitor
Rural, Edinburgh



Daniel Trail - Solicitor
Corporate, Edinburgh



Jennifer McPhee - Paralegal
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