



LATEST NEWS

ESTABLISHED IN 1809 AND CELEBRATING OVER 200 YEARS IN HINCKLEY

THOMAS FLAVELL & SONS secures the Law Society's new Conveyancing Quality Mark

Thomas Flavell & Sons have become one of the first practices in the country to secure membership to the Law Society's Conveyancing Quality Scheme - the mark of excellence for the home buying process.

The Firm underwent rigorous assessment by the Law Society in order to secure its CQS status, which marks us out as meeting particularly high standards in the residential conveyancing process.

Law Society President Linda Lee said that:

"The Law Society introduced CQS to help to recognise high standards in the home buying process and deter fraud in the residential property market. CQS improves efficiency with common, consistent standards and service levels and enables consumers to recognise practices, such as **Thomas Flavell & Sons**, that provide a quality residential conveyancing service. Buying a home is one of the largest purchases anyone will make in their lifetime, so it is essential that it is done to the highest standard by a solicitor. There are many different conveyancing service providers out there, making it difficult for home buyers to identify those which can ensure a safe and efficient level of service."

Tom Flavell, the Firm's Managing Partner says:

"**Thomas Flavell & Sons** are delighted to have secured CQS status. It is recognition of the high standards we provide to our residential property clients and is a signal to future home buyers of the excellent service level we provide at what is often a stressful time for many people. The overall beneficiaries will be clients who use **Thomas Flavell & Sons** when buying a home. They will receive a reliable, efficient service as recognised by the CQS standard."

The scheme requires practices to undergo a strict assessment, compulsory training, self reporting, random audits and annual reviews in order to maintain CQS status. It is open only to members of the Law Society and to those who meet the demanding standards the scheme will set and has the support of the Council of Mortgage Lenders, the Building Societies Association, and the Association of British Insurers.

For more information on the Law Society's Conveyancing Quality Scheme visit www.lawsociety.org.uk/cqs or contact the CQS Unit on 020 7316 5550 or CQS@lawsociety.org.uk

“STAYCATION”- SECOND HOMES CAN BE LEGAL MINEFIELDS

The popularity of second homes in the UK, which are often used as holiday homes, could expose owners to a “minefield” of risks.

The popularity of "staycations" - staying in the UK rather than travelling overseas for a holiday - has seen more second homes being used by "staycationers."

Statistics from the English Housing Survey: Household Report 2009-10 shows that there are 279,000 second homes in England, but owners are not always aware of the potential problems of owning a second home.

Chris Stratford, Head of Conveyancing at **Thomas Flavell & Sons** points out:

“Second homes are often unoccupied for long periods of time. However, they could become targets for squatters, or there could be legal considerations to take into account when renting them out for short periods to holiday makers, and there are often insurance issues to take into account, not to mention the types of issues that come with buying any home, such as any legal anomalies or liabilities attached to the property.

"There are also tax implications for second home owners that need to be considered.

“It is essential that anyone buying a second home contacts a Conveyancing Quality Scheme (CQS) accredited solicitor such as **Thomas Flavell & Sons** to look at the potential risks and benefits of buying.

"Equally, anyone who already owns a second home for their own holiday purposes, but plans to let it be used by family members or others for extended periods could be changing its status as a holiday home without realising.

"During off seasons second home owners might look to rent out the property for long periods of time and suddenly you have a landlord and tenant relationship which carries with it a host of additional obligations and liabilities.”

Thomas Flavell & Sons underwent a rigorous application and assessment by the national Law Society to become part of CQS initiative, which recognises high quality in residential conveyancing. CQS has the support of the Council of Mortgage Lenders, the Building Societies Association, Legal Ombudsman and the Association of British Insurers.

SEPARATING COUPLES TO BE FORCED TO CONSIDER MEDIATION OPTION

From April separating couples will be required to consider whether their disputes can be settled by mediation rather than through the courts, justice minister Jonathan Djanogly has announced. Under a new protocol, agreed with the judiciary, all parties will be required to attend a mediation awareness session, either together or separately, to find out if mediation is appropriate for them. However, in cases where there are allegations of domestic violence or where there are child protection issues, cases will progress straight to court without the requirement to access mediation.

Sue Harrison our Matrimonial Partner says: “Clients need to be re- assured this is not a blanket provision. We know mediation won't be right for everyone. It won't suit some people, who should be free to explore other avenues including

court, or for those in serious or dangerous circumstances, for examples in cases of domestic violence or child protection. 'They will not be prevented from progressing straight to court.'

The protocol, which already applies to legally aided parties, will come into effect for privately funded people from 6 April."

"Seeking advice from properly qualified solicitors is essential if clients are to go down the most appropriate route"

If you feel you may need advice **Thomas Flavell & Sons** can advise you on the latest law in this field. Call **Sue Harrison** on **01455-610747** for further information.

VAT - Confusion over when to charge the increased standard rate of VAT of 20 per cent.

Why is nothing ever simple?!

We all know the standard rate of VAT increased from 17.5 per cent to 20 per cent on 4 January 2011. However, it's clear that some businesses are confused about what invoices to apply the new rate to. For any sales of standard-rated goods or services that businesses make on or after 4 January 2011 they must charge VAT at the 20 per cent rate. So far so clear. The problem lies with sales that span the change in rate. **Tom Flavell** the firm's business partner comments: "We're advising our clients to gain specialist advice in these circumstances. There are special rules for sales which span the change of rate. If you provided goods or services before 4 January 2011 and raised a VAT invoice on or after that date you can choose to account for VAT at 17.5 per cent. You don't need to tell HM Revenue & Customs if you do this"

But there are special rules for Services you started before 4 January 2011 but finished afterwards. If you started work on a job before 4 January 2011 but finish afterwards you can account for the work done up to 3 January 2011 at 17.5 per cent and the remainder at 20 per cent. If you choose to do this you will have to be able to demonstrate that the apportionment is "fair".

And another thing! If you provide a "continuous supply of services", such as leasing of photocopiers, you should account for the VAT due whenever you issue a VAT invoice or receive payment, whichever is the earlier. You must charge 20 per cent on invoices you issue and payments you receive on or after 4 January 2011. You may, if you wish, charge 17.5 per cent on the services you provided in the period up to 3 January 2011 and 20 per cent on the remainder. If you choose to do this you will have to be able to demonstrate that the apportionment is "fair".

If you feel you may need advice **Thomas Flavell & Sons** can advise you on the latest law in this field. Call **Tom Flavell** on 01455 - 610747 for further information.

NEW BRIBERY ACT COMING INTO FORCE

Companies need to revise their policies and guidance to employees in the light of the Bribery Act 2010. The government has recently announced that the implementation date will be April 2011 which does not leave much time to revise procedures. The Act makes it an offence both to make and to receive a bribe and contains a specific offence of bribing a foreign official. It also makes companies liable unless adequate procedures are taken.

GUIDES TO EQUALITY ACT PUBLISHED

Are you an employee or do you employ people? Either way the Equality Act 2010 which is due to come into force in October 2010 may affect you. The Government has now published guides to the Equality Act.

David Boon, the Firm's Employment Partner, says "The Equality Act 2010 draws together nine different pieces of employment law into one. All discrimination law is now in one place. The guides are published by the Government Equalities Office (GEO). There is separate guidance for employers, carers, the disabled, the public, voluntary and community organisations and the public sector. The Equality and Human Rights Commission has also published guidance on the new law."

If you have been discriminated against on grounds of age, race, religion, gender, disability or otherwise contact us for advice. Call **David Boon** on **01455- 610747** .

BUYING AND SELLING YOUR BUSINESS

Some parts of the economy are beginning to pick up and business sales and purchases are on the increase. The new tax rules on business sales have led to some queries.

Jamie Connolly one of our business law partners says:-

"The Emergency Budget made some important changes for those who are selling a business. Although widely heralded as increasing capital gains tax on any profit on sale of shares (the headline rate increased from 18% to 28% depending on taxable income) there was also an improvement – the entrepreneur's relief was increased to £5m of lifetime gains taxed at only 10% per person. Thus if five family members work and own shares in the business they can make 5 x £5m - £25m on sale and pay 10% CGT on that.

There is also an individual £10,100 annual tax free CGT allowance for those making smaller gains.

If you need advice on the best method of selling your business, contact either **Tom Flavell** or **Jamie Connolly** on **01455-610747**. There can be substantial differences depending on whether you sell shares or assets too. If you sell assets then the company makes the gain and corporate gains are subject to corporation tax and then when you the shareholder of that company take the money out as dividends, it is taxed again.

SORTING OUT YOUR LEGAL AFFAIRS IN 2011

How is your personal legal housekeeping? A new year is a good time to make some legal resolutions. Make your will. Ensure property is in the right names. Even consider a pre or post pre nup. Enter into contracts with business partnership and shareholders rather than operating on trust. Introduce some standard terms of sale and purchase into your business.

Tom Flavell our Managing Partner says:

"Our private clients are not always up to date with matters such as making a Will. Although the government is looking at changing the law to give better rights on death to cohabitants who are not married, those changes are not yet in effect and many people believe common law marriages are legally recognised. They are not. However you can protect your position through a well drawn up Will and other legal documents. It may be that you want to ensure that if you die your live in partner does not inherit but your children from a previous marriage will do so and if the law may change in this field to give new rights to a partner you may want to ensure you write a Will now to make it clear who will inherit.

Another sensible precaution before moving in with a partner, or before or during marriage or a relationship is to agree in writing about certain important financial matters. If one partner moves into the home of the other, will the property go into joint names? Will the parties have equal shares? If, before marriage, one partner has substantial assets and income they may want to protect if they divorce, it may be worthwhile after the recent court recognition of a foreign law pre- nuptial agreement (in the Radmacher case) to have lawyers draw up a pre- nuptial agreement. It may not always be watertight but it is likely the court will give some consideration to such documents, particularly if both parties have had legal advice and the terms are reasonable. We can help you draw up such documents.

If you are concerned about losing capacity as you get older, it may be sensible to draw up a Lasting Power of Attorney setting out how your affairs will be managed if you lose legal competence, such as through Alzheimer's or dementia. Again we can help you draw up the relevant documents. Looking at your tax position before the end of the tax year on 5th April is also wise. You may have tax allowances to use and seek methods lawfully to reduce the impact of inheritance tax were you to die. Call us for help in all these areas.

BUYING AND SELLING A PROPERTY

If you are considering buying a property, do consider recent changes in the law in this area. For those buying a commercial lease a recent case of landlord who informed a tenant he intended to redevelop a property and then later changed his mind was liable for damages.

Jamie Connolly a partner and property specialist with the firm says:

"We can advise on service of notices required under property law in such cases and ensure you comply with the law. Plenty of local businesses buy a long lease on their shop or office without taking proper legal advice on its terms and then find they are personally liable, not just their limited company, as they did not read the paperwork properly or otherwise are tied up in ways they do not like. The Landlord and Tenant Act can be a bit of a minefield."

If you are proposing to move house we can also help you with the legal side of things. Watch out for properties owned in joint names. Recently the court said that what are called the "beneficial" interests in property bought in joint names could change because of big changes in circumstances. The property was originally owned 50/50 but the court held this had changed to 90/10.

We can advise you on all aspects of property law. It is now possible to set out at the Land Registry when you buy with someone else what percentages you each hold of the property and you may wish also to have a written agreement between the parties who jointly own the property as to their respective shares, which should be kept under review.

Call [Jamie Connolly](#) or [Chris Stratford](#) on [01455-610747](#) for further information.