Taylor Bracewell

Your solicitors | Your success

APRIL 2023 - NEWSLETTER

Welcome to the April edition of our monthly newsletter! We have 4 new exciting articles which focus on Mediation, landlord & tenant disputes, flexible working and personal guarantee!

Here at Taylor Bracewell, we love to hear what you think, so make sure to message us via our website at www.taylorbracewell.co.uk and let us know what you want to see next!

If you need any more information on any of the subjects mentioned in this newsletter, don't hesitate to contact us on 01302 341 414 or 0114 272 1884

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HOW CAN MEDIATION HELP IN A SEPARATION?

FAMILY LAW

Family mediation can help separating families manage their issues productively and collaboratively. Both parties are initially invited to a separate intake session in order to assess whether mediation is going to be an appropriate way to resolve issues. If both parties agree, there will then be one or more joint sessions. These could take place face-to-face or virtually. It is also possible to have shuttle mediation where you are in separate rooms if that could be more productive or comfortable.

Mediation is a process in which an impartial third party (the Mediator) assists those involved to reach their own agreed and informed decisions about issues arising from their separation. This can include arrangements for the children and financial issues.

Mediation can help to reduce tension and anger and improve communication. This is especially important when there are children in the relationship. The aim is to work towards an outcome that both parties regard as reasonable and fair.

Legal aid can be available to cover the costs of mediation and the Mediator will discuss with you whether you are eligible. Where one party is eligible, this can also benefit the other party.

The Government has also set up a voucher scheme and you can find more information by clicking here

To learn more about mediation and how it may benefit you in dealing with any separation issues, visit the Family Mediation Council website by clicking here

Please contact the Family team for more information about mediation or any family issues on 01302 341414 or 0114 272 1884, alternatively, you can fill out our **online enquiry form.**

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Here are some other articles which may be of interest:

Top Mediation Questions | click here

What are financial remedy proceedings? | click here

Family Mediation Week | click here

MOST COMMON LANDLORD AND TENANT DISPUTES AND HOW TO RESOLVE THEM

DISPUTE RESOLUTION

The most common disputes are:

Issues with the property – this can include dampness and mould which can lead to systemic issues and health problems if it is not dealt with efficiently. Drain issues may also occur; these can cause a dispute over whose responsibility it is to fix them. Damage to the house is a common dispute but it is difficult to prove who caused the damage and therefore who should fix it.

Pets – if pets are not allowed in the rented property it should be clearly stated in the contract. If it does any pets in the property are a breach of the lease. This should be negotiated between the landlord and tenant if at all possible and if not, the landlord may look to bring the tenancy to an end and evict the tenant.

Bills – a bills inclusive agreement can prevent issues from rising.

Rental payment issues – Shorthold tenancy agreements usually include the consequences for late or no payment.

How to resolve Landlord and Tenant disputes:

Communicate – the landlord and tenant should communicate the issues with each other and try to resolve them amicably. What has been agreed should be set out in writing.

Writing – if resolving the issues amicably is not effective, then each issue should be documented in writing along with all replies. This should be specific and accurate, including dates where possible. This can then be used as evidence at Court.

Mediation – an impartial third party assists the parties with resolving the dispute.

Court – this is the last resort for most landlords and tenants and it is the most expensive.

Our Dispute Resolution are experts within their field and deal with landlord and tenant disputes on a regular basis. If you feel that you would benefit from their advice, they can be contacted by calling 01302 341414 or 0114 272 1884, alternatively, you can fill out our online enquiry form.

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FLEXIBLE WORKING: KEY THINGS YOU NEED TO KNOW

EMPLOYMENT LAW

Flexible working is something that we are all familiar with now. It allows employees to have a better work-life balance. Since the Covid pandemic, workers are seeking a more flexible working contract; however, before submitting a flexible working request, it's important you know the basics.

The benefits of flexible working to the employee include:

- Increased work satisfaction
- Increased commitment
- Reduce absence rates
- Easier to manage disabilities or long-term health conditions
- Decreased stress
- Non-geographical location required (depending on the terms in the contract)

One significant aspect of flexible working is working remotely for at least some of the time. Flexible working not only benefits the employees but also directly benefits the business itself. Flexible working can benefit the employees, but it can also directly benefit the business itself. It allows businesses to save on office space, sometimes allowing them to downsize their premises to save on running costs.

However, there can be downsides to remote working, for example, a lack of support and supervision for junior staff, and it can be open to abuse. It doesn't suit all workers either; some people prefer to work alongside their colleagues and can become lonely and isolated at home. Furthermore, it requires suitable working conditions at home. And of course, only certain types of work can be performed remotely.

What are the different types of flexible working?

There are various flexible working conditions, often changing to be unique for a specific employee. However, the most common types include:

- **Part-time work –** Meaning the employee works less than the normal hours.
- **Compressed hours –** Increasing the working hours in a singular day may mean you work fewer days.
- **Flexi-time –** This allows the employee to choose when they start and finish their working day.
- Staggered hours – Amended starting and finishing times for employees.
- **Job Sharing –** Splitting a job which is meant for one person with someone else.
- **Working from home –** WFH allows employees to work remotely, for example from home.

How to apply for a flexible working request?

Employees can apply for flexible working if they've worked continuously for the same employer for the last 26 weeks.

If you are eligible for a flexible working request, you can make a formal request or approach your employer informally and ask. If you take the formal route, then the following applies:

1. The employee must send a letter to their employer outlining the conditions of their flexible working request. It's essential to include the following when writing this letter: Set out the working patterns you desire, including start and finish times; explain how the proposed change can affect you and your colleagues and explain why you are making the request. You should also say if you are making a request because you are put at a disadvantage because of your age, sex, race, disability, religion or belief, or sexual orientation.
2. Once the employer receives the application, they have three months to make a decision on the request.
3. If the employer agrees to the request, they will change your contract of employment to reflect the change in terms and conditions, unless a trial period is agreed.
4. If the employer disagrees, they must write to the employee outlining the business reasons for the refusal.

You can make one formal request in a 12-month period. If a flexible working request is rejected without fair reason, or your employer does not follow the process, you may be able to bring a claim in the Employment Tribunal.

Please note important time limits apply - you have three months less one day to bring a claim, so you should seek advice without delay in those circumstances.

Flexible working legislation changing in 2023

The Employment Rights Act 1996 is being amended to introduce a new "Employment Relations (Flexible Working) Bill" which will alter the law and process behind making a flexible working request. This Bill is set to be introduced in 2023 and will change the current right to request flexible working in the following ways:

- Employees will no longer be required to explain in the application the effects they think their request will have on the employer.
- Employees will be allowed to make two flexible working requests in a 12-month period as opposed to the current one request.
- Employers will be legally obligated to consult with the employee before being allowed to refuse a request.
- Employers will have a maximum of two months instead of the current three months to make a decision.

If you require any further information or advice on flexible working requests, don't hesitate to contact our specialist employment lawyers. Our employment team have years of knowledge on all aspects of employment law and is more than happy to help, they can be contacted by filling out our **online enquiry form** or by calling 01302 341 414

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PERSONAL GUARANTEES – WHAT ARE THEY AND THINGS TO WATCH OUT FOR

COMMERCIAL PROPERTY

It is often advisable to purchase a property or take a lease in the name of a limited company, not just for tax reasons but also because of the important principle of limited liability. This means that provided the directors/shareholders behind the company run the company properly then when entering into contractual obligations the company is only liable to the extent of the company's assets. Hence using a limited company to conduct your business is about limiting your own personal financial exposure.

However, that is not the end of the story as directors can be asked to give Personal Guarantees both by landlords in a leasehold situation and more often when taking out bank lending. It is personal guarantees that are given to a lender that I will focus on in this article.

When giving a guarantee to a lender you should note:

1. It is usually the directors of a private limited company that will be asked to give a guarantee.

2. The effect of giving a personal guarantee is that instead of hiding behind the limited liability of the company the director's personal assets are at risk if the lending is not repaid when due.

3. Often the directors and the shareholders of the company are the same but not always. Be wary if you are being asked to give a guarantee but have no ownership of the shares or your shareholding is unequal and you are a minority shareholder. You will still have the same liability to repay the lending as a majority shareholder who has also given a personal guarantee.

4. If more than one director is giving the personal guarantee to the lender they will be jointly and severally liable which means the lender can ask each director to repay the whole of the loan.

5. Personal Guarantees should be limited to the amount of the loan. Do not sign an unlimited personal guarantee.

This article continues onto the next page...

6. Personal Guarantees are not usually limited to time.

7. Personal Guarantees are not limited to the pot of money being lent but cover all monies owing to the lender, be it past borrowings, present borrowings or future borrowings.
Be wary of having "all your eggs in one basket" and by that I mean do not be overly exposed to one lender.

8. Do not enter into a personal guarantee lightly, and do not put it in a drawer and forget about it. It can come back and bite you when you might have forgotten all about it.

9. The lender will ask you to take legal advice on the personal guarantee but it is also in your own interest to get robust advice. You need to be fully aware of your risks and exposure and make an informed decision.

Our Commercial Property team are experts within their field and are always happy to help. You can contact them by calling 01302 341414 or 0114 272 1884, alternatively, you can fill out our **online enquiry form**.

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We have further articles on our website relating to commercial property, here are three that you may find interesting:

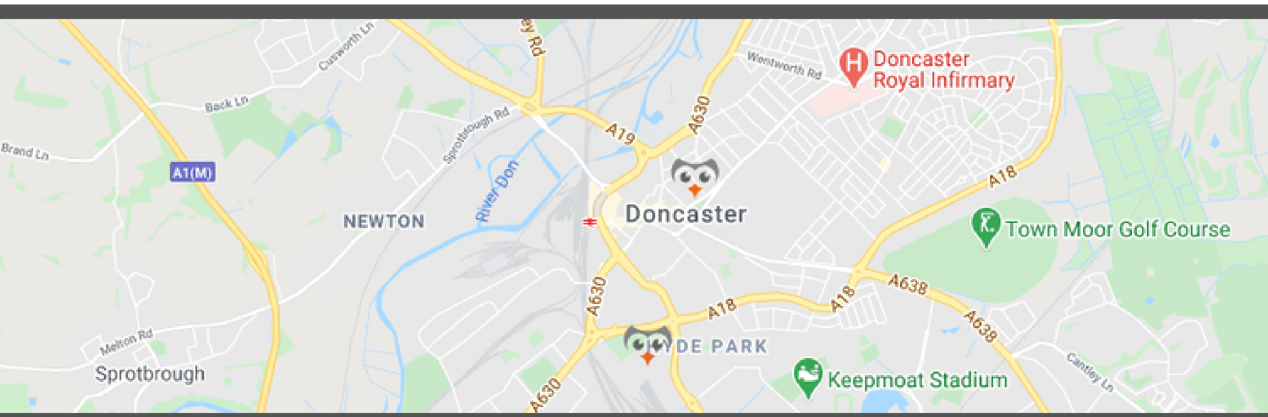
- I am buying/taking on a commercial premises, what should I be considering? | **click here**
- What are the main costs involved when buying/leasing a commercial property? | **click here**
- Is VAT payable on commercial properties? | **click here**

ABOUT US

Taylor Bracewell Solicitors is a dynamic and forward thinking legal firm with offices in Doncaster and Sheffield. We are passionate about providing individual service and connecting with our clients on a one to one basis. This enables us to fully understand our clients' legal needs and deliver exceptional value in our services

Our Services:

- Commercial Property
- Residential Property
- Family Law
- Employment Law
- Disputes
- Medical Negligence
- Personal Injury Claims
- Business/ Company Law
- Business Disputes
- Charities
- Wills, Probate and Trusts
- Asset Protection
- Inheritance Tax planning
- Powers of Attorney and Court of Protection



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