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Charles Lucas & Marshall has a new website. The site has been re-designed with the aim of making it more user friendly and informative, visit [www.clmlaw.co.uk](http://www.clmlaw.co.uk) and see for yourself...

## CORPORATE SERVICES TEAM IN GREAT SHAPE FOR FUTURE

It has been a busy period for Charles Lucas & Marshall's Corporate Services Team with several company sales and acquisitions completed on behalf of clients.

The Team has been strengthened by the arrival of two new members – Peter Billyard and Trainee Solicitor, Karen Jenkins with Lance Parker taking over as Head of Team from Stewart McMinn (see page 4). Tom Walker, Solicitor, has established himself firmly in the Team and has taken over a large part of Stewart McMinn's client portfolio.

Project highlights include:

- purchase of shares in a vehicle leasing and sales company by a national subsidiary of a multinational group
- sale of shares in an owner-managed electrical components manufacturer and distributor
- purchase of goodwill, assets and freehold property of children's nursery business for acquisitive company looking to expand in the childcare sector
- restructuring of group of paper agent companies with a view to founders'

gradual exit from management and ownership of business.

- purchase by UK company of Australian company valued for its intellectual property, including negotiation of equity investment in UK company

"We are highly experienced at working with owner-managed businesses and aim to provide a responsive and tailored service which focuses firmly on our clients' objectives and goals," says Lance Parker.

Peter Billyard has joined the Corporate Services Team after switching to a legal career from the media and publishing industry. Before qualifying as a lawyer, Peter spent many years at Haymarket Media, primarily as a Development Manager where he was involved in the launch of new business and consumer titles as well as acquisitions for the Haymarket Group. Trainee, Karen Jenkins has also been recruited to strengthen the Team.

"Over the last few years we have concentrated on recruiting lawyers from a diverse range of backgrounds and with complementary skill sets, enabling us to

provide a complete service offering," says Lance Parker. "This has earned us a strong reputation in transactional work, commercial property and employment."

Andrew Egan continues to strengthen the firm's employment law services, working in both Swindon and Newbury, Andrew has been dealing with a number of local businesses and organisations. Cases have included:

- Advising and assisting with the implementation of contract changes and establishment of an employee representative council for a large care home with over 300 employees
- Representing three Respondent companies in the construction industry in a multi party case in the employment tribunal against 14 claimants
- Successfully obtaining over £58,000 in a claim for compensation for an employee in relation to a redundancy unfair dismissal claim
- Obtaining over £30,000 compensation in a bullying and harassment case against a banking institutional employer



# UNHAPPY COUPLES CANNOT AFFORD TO SPLIT



Lyn Ellins

In the past, unhappy couples often stayed together for the sake of the children – but now they are just as likely to stay together because they cannot afford to divide up the family home.

Family lawyer, Lyn Ellins of Charles Lucas & Marshall believes recent falls in house prices will only exacerbate what is a growing social trend – the inability of unhappy couples to find a way of living separately.

“It is certainly true that increasing numbers of couples feel stuck in a relationship out of which there is no economic escape,” she says. “This is largely down to high mortgage payments and the rising cost of living.”

While more couples are arranging their own divorce, they still look to lawyers to help them iron out a financial settlement.

“If couples cannot agree and realise their divorce will end up in court then they soon realise they need a lawyer to represent them,” adds Lyn. “What is happening is that couples are remaining in the same house but living separate lives - which can create a lot of tension in the house and is particularly difficult if children are involved.

“For a couple in their 40s, perhaps mortgage free with tangible assets to divide, a divorce is a real option and should mean there is something left for both parties to start a new independent life, relatively free of economic uncertainty.

“But in the case of younger couples, their options are a lot more limited – and becoming increasingly so. However, collaborative processes can help couples work out a way forward without going to court.”

If you would like further information, please contact Lyn Ellins on 01793 511055 or [lyn.ellins@clmlaw.co.uk](mailto:lyn.ellins@clmlaw.co.uk)

## DIETARY ADVICE CASE TRIGGERS MEDIA ATTENTION

Michael Berrett, Head of Charles Lucas & Marshall’s Litigation Team, recently completed a high profile clinical negligence case which sparked a frenzy of media interest.

Michael was representing Dawn Page, who developed brain damage after taking dietary advice from a non-medically qualified nutritionist. Mrs Page, of Faringdon, Oxfordshire was awarded an out of court settlement of £810k.

She now has to struggle with a poor attention span and limited short term memory after the nutritionist told her to drink large sums of mineral water to help her reduce weight.

When Mrs Page contacted nutritionist, Barbara Nash to say she was being violently sick and had flu-like symptoms, Mrs Nash advised her to continue with the daily intake of water. Days later, Mrs Page collapsed and suffered an epileptic fit. She subsequently

discovered that the vast quantities of water she had been drinking had diluted the salts in her body and caused organ failure.

The story was featured extensively across national television and radio, including GMTV and Radio 4’s ‘You and Yours’ programme, national newspapers as well as women’s magazines and local media.

Michael Berrett says the case is significant because it shows there is a need for regulation among non-medically qualified practitioners who set themselves up as qualified to dispense health advice.

“This case establishes a standard of care for non-medically qualified practitioners,” he says. “There has been very little case law in this area and this decision accelerates the need for greater regulation.”

To contact Michael Berrett please call 01235 771234 or [michael.berrett@clmlaw.co.uk](mailto:michael.berrett@clmlaw.co.uk)

## MORTGAGE LENDERS DEMAND GREATER TRANSPARENCY

Home-buyers who have chosen to buy new properties must now be legally told of any incentives developers have included in the total purchase price.

Traditionally, developers have often included items such as payment of stamp duty or fixtures and fittings such as carpets and curtains in their final price to new home-owners.

However, as lenders try to tighten up on mortgage fraud and ensure borrowers do not over-borrow against property values, they have imposed a change of rules which mean solicitors must declare any incentives given to home-buyers.

“Lenders want to be clear as to the true value of the property and that the value is not artificially inflated,” says Simon Pook, Head of Residential Property at solicitors, Charles Lucas & Marshall. “We must now include paperwork which details any incentives.”

The Council of Mortgage Lenders – which has introduced the ruling – believe the price of newly built homes is often distorted by incentives offered by developers.

They want to ensure that future mortgage offers are based on realistic prices of new property

“This is just another indication of how tough it is to get mortgages in the current climate and how lenders are trying to tighten up every loophole possible to protect their interests,” added Simon Pook.

You can contact Simon Pook on 01635 521212 or [simon.pook@clmlaw.co.uk](mailto:simon.pook@clmlaw.co.uk)



# LASTING POWERS OF ATTORNEY ARE WORTH THINKING ABOUT

Few people consider the difficulties they would encounter if they were to become incapable of managing their affairs through illness, accident or old age.

However, you can now make a new type of Power of Attorney called a 'Lasting Power of Attorney' (LPA).

There are two types of LPAs: a Property and Affairs LPA which allows your attorney to deal with your property and finances as you specify. Secondly, there is a Welfare LPA which allows your attorney to make welfare and health care decisions on your behalf when you lack the mental capacity to do so.

This could also extend, if you wish, to giving or refusing consent to the continuation of life sustaining treatment.

An LPA is a special type of document as it continues to be effective even in the event of mental incapacity - precisely the time when an LPA is required.

It is worth noting that if you lack capacity to make an LPA, someone (probably a relative) would need to apply to the Court of Protection to be appointed as your deputy. This person would then be appointed by the Court to deal with those parts of your finances and affairs which you cannot deal with yourself. Applying for such an order is both costly and time consuming.

It goes without saying that LPAs are extremely useful documents. The consequences of not planning for possible mental incapacity can be serious, cause worry and be an unnecessary administrative burden to your family.

Any Enduring Power of Attorney validly made before 1 October 2007 can continue to be used but only in respect of financial affairs.



For further information contact Marie Verney on 01635 521212 or [marie.verney@clmlaw.co.uk](mailto:marie.verney@clmlaw.co.uk)

# HEARING LOSS COMPENSATION – NEED FOR GREATER URGENCY

Workers who are suffering hearing loss as a result of their job will need to act more quickly if they want to claim compensation.



Charles Lucas & Marshall solicitor, Brigitte Chandler, a specialist in industrial disease law, says courts are now expecting claims for hearing loss to be made within a maximum of three years from workers leaving their employment.

Until now, workers could make a claim up to three years from when their hearing loss was detected by their GP.

"The courts' attitude has changed so anyone who believes their deafness is the result of their job should not delay," says Brigitte. "They should see their GP immediately and ask for a test for industrial deafness. Some GPs do not know how to detect this so they should ask to see a specialist doctor who will carry out an audiogram."

Many workers are exposed to excessive noise in car factories, the railway industry, engineering and manufacturing. Compensation for deafness claims can range from £5k - £30k. People who are deaf may also face difficulty in the labour market and the courts can award compensation for this.

- Brigitte Chandler has been invited to take part in a series of films aimed at improving safety in the construction industry. The series is being developed by the Institute of British Architects, National Health and Safety Committee, the BBC and other government organisations involved with safety in construction. It will be subsidised by commercial companies who have a significant presence in the construction sector. The films will be shown to architectural students and throughout the building industry.

"Sadly, I have a vast number of clients who have died working in the construction industry, through lack of awareness of health and safety issues," says Brigitte. "Anything that can help improve safety levels has to be welcomed."

# SABBATICALS ARE AN ALTERNATIVE TO REDUNDANCY

As businesses look to cut costs and reduce overheads, many are considering an alternative to redundancy and offering staff sabbaticals instead.

Sabbaticals are still a relatively new concept to many UK businesses with employers traditionally reluctant to let staff go... until now.

Andrew Egan, Employment Lawyer with Charles Lucas & Marshall, says increasing numbers of employers are turning to sabbaticals as a way of streamlining their workforce during times of recession.

"Redundancies will be the obvious option but there is a growing reluctance to let go of valued employees who have potential to contribute to the business," he says.

"If and when business does pick up, the services of some employees who have been made redundant will be sorely missed."

Many businesses are now seeking to retain staff by offering sabbaticals as an alternative to redundancy. It allows them to avoid issues of redundancy payments and the need to follow

complicated procedures for selecting redundancy candidates.

"The employee can remain 'employed' without receiving pay and can easily be reintegrated into the business at the conclusion of the sabbatical," added Andrew Egan.

However, a sabbatical has to be voluntary and employers cannot ask employees to take unpaid leave against their will.

"We would strongly advise employers to have a written sabbatical policy explaining issues such as eligibility, length of leave, notice requirements and entitlement to pay during the career break," says Andrew Egan

"All staff should be treated fairly when applying for a sabbatical and a work policy needs to be in place to cover the leave and ensure both parties act fairly and follow an agreed procedure."



For further information contact Andrew Egan on 01793 511055 or [andrew.egan@clmlaw.co.uk](mailto:andrew.egan@clmlaw.co.uk)

If you would like more information e-mail us at [ask@clmlaw.co.uk](mailto:ask@clmlaw.co.uk) or visit our website at [www.clmlaw.co.uk](http://www.clmlaw.co.uk)

# STEWART'S FULL INNINGS DRAWS TO A CLOSE

In today's fast-changing world, very few people can lay claim to working for the same business, man and boy ... but Stewart McMinn who has stepped down as Head of Charles Lucas & Marshall's Corporate Services Team can do just that.

Stewart joined the firm in 1959 at the age of 16 ...and retired last summer, 49 years later. Having no firm idea as to where his future might lie, the vacancy at Charles Lucas & Marshall was suggested to him by his recruitment officer when he was due to leave Newbury College.

"The first thing I had to get to grips with was using the phone," he said. "Like most people, we did not have one at home."

Stewart began work in the firm's Hungerford office, cycling from Inkpen each day. As Charles Lucas & Marshall acted as agent to the Hungerford Water Company, one of his

first responsibilities was to write out bills for water rates for all the company's customers.

"I suppose I was your old fashioned office boy," says Stewart. "We acquired a photocopier and my job was to mix the solutions so we could use it."

Despite having no academic qualifications, Stewart was encouraged to qualify as a solicitor. He set about taking GCSEs and studying for his law exams at the College of Law in London. Upon qualification in 1972 he was immediately made a partner.

"Solicitors tended to be more general practitioners in those days," he said. "It was a bit like being the family doctor. You handled a diverse range of work. I remember visiting prisons in Winchester and Oxford, doing a stint in magistrates court and basically learning to stand on my own two feet."

Stewart believes it would be impossible for anyone now to replicate his career path.

"I have had a wide and interesting career," he says. "Nowadays, solicitors are channelled into a very narrow spectrum of work. There is still the same satisfaction of getting things done for people though, finishing a deal."

Now Stewart has done his 'full innings' he is looking forward to spending more time with his family and indulging in his two main interests – gardening and travelling. Trips to Australia and New Zealand are being planned and what he will not miss is arriving early in the office each day and leaving late.

"I will miss the family culture at Charles Lucas & Marshall," he added.

"I would not have been able to qualify as a solicitor when I was younger while still working full-time, if I had not had the tremendous support from colleagues and partners."



## NEW FAMILY LAWYER AT CHARLES LUCAS & MARSHALL



Sue Mason has joined the family law team at solicitors, Charles Lucas & Marshall.

Sue is an active member of Resolution, the national organisation committed to constructive resolutions of family disputes and is Secretary of the Berkshire & Buckinghamshire Resolution regional group. Sue is also trained as a Collaborative Lawyer and specialises in Divorce, Ancillary Relief and Children matters.

She joins Charles Lucas & Marshall after six years with Reading law firm, Blandy & Blandy.

"I am looking forward to working with the team here and building on the excellent reputation Charles Lucas & Marshall has in family law," said Sue.



## TRAINEE BLOGS ON LEGAL LIFE AS IT IS

Trainee lawyers at Charles Lucas & Marshall, Karen Jenkins and James Woodhouse have started blogging about their first taste of legal life.

Visit [www.clmlaw.co.uk/blogs](http://www.clmlaw.co.uk/blogs) to keep up to date with how they see the start of their legal careers.

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