



V&S FOCUS

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New Year 2013. Volume 5 Issue 1

Welcome to the New Year edition of Vanderpump & Sykes' seasonal newsletter - V&S Focus which is designed to keep you up-to-date with legal news which may affect you or your business. In addition to our law features, we are introducing new and practical services, especially created to make our legal services more accessible and cost effective.

We are continuously looking for ways to improve our service and have embarked upon the LawNet Mark of Excellence scheme to ensure that our legal expertise is backed by the best client service. See page 7 for further details.

We do hope that you find this edition of V&S Focus informative and useful. To make an appointment or for further information contact us on: 020 8367 3999.

New to Vanderpump & Sykes Solicitors is the Notary Public practice provided by James Porter

Aimed primarily at businesses who engage in international trade (but also individuals), services will include:

- Authenticating company and business documents and transactions
- Dealing with the purchase or sale of land and property abroad
- Preparing and witnessing powers of attorney for use overseas
- Providing documents to deal with the administration of estates of people who are abroad or who own property abroad
- Authenticating personal documents for immigration or emigration purposes or to apply to marry or to work abroad

The Notary Public practice is available during normal office hours. Appointments can also be made for Vanderpump & Sykes' late night opening on Wednesdays until 8pm.

James Porter is also a partner in the commercial property department of Vanderpump & Sykes. For further information, please contact: 020 8370 2865.



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Vanderpump & Sykes Solicitors Late Night Opening

Getting legal advice is now more convenient with local firm Vanderpump & Sykes extending their opening hours.

Late night legal advice is now available every Wednesday until 8pm, by appointment only. Individuals seeking help in debt recovery, employment, family, litigation, residential conveyancing and wills & probate are now able to receive help after hours, in complete confidence.

Vanderpump & Sykes have been established in the North London community since 1899, serving clients both locally and nationwide. In addition to the traditional areas of personal law services, businesses also have access to advice

in company law, commercial property and notary public services (during office hours).

As well as providing clients with convenient access to legal advice, Vanderpump & Sykes also offer a range of promotions and practical services to assist with their needs.

To arrange a late night appointment for legal advice on any personal matter, contact Vanderpump & Sykes Solicitors on free phone 0800 731 6124 or 020 8367 3999.



Is Housing Supply Improving?

The House Builders Federation issued its Q3 2012 Housing Market Report in December 2012. They report approval of 36,500 residential units during Q3. 2012. This is 15% up on the third quarter of 2011. However, to give perspective to this, in 2006/2007 average starts stood at 64,500.

It is true of the UK economy that the largest percentage of house build 'starts' are in the private sector. The private sector is also responsible for providing the majority of affordable housing through the planning system. Private sector construction is driven by consumer demand. The current scarcity of lending, both for development and property purchases by consumers, is a major impediment to housing starts. There is clearly a demand in the economy as new household formations do not diminish. Clearly this demand is not effective. It is difficult to know whether effective demand is impeded by a reluctance to commit to purchasing by consumers or an absence of affordable mortgage products. The loan to value requirements of lenders is certainly an important element in the actual availability of mortgage products. It has been estimated by Barclays, that first time buyers are taking 8 times longer than those in 1995 to scrape together a deposit. The government seems to recognise this bottleneck as they have introduced the Funding for Lending Scheme and the New Build Scheme. The government have also introduced the Get Britain Building Scheme to make available finance development available to drive housing starts.

One other impediment to housing starts is the planning system itself. The system is slow and expensive and despite being policy led many local development frameworks are out of date. Very little seems to

have been done to alleviate the cost of applications but the National Planning Policy now has a presumption in favour of sustainable development. The National Planning Policy states that whilst any proposals should be in accordance with an up to date local plan if the plan is absent or out of date planning applications for sustainable development should be approved by the local planning authority. This is a substantial shift and will allow the developer to appeal to the Secretary of State against a refusal of planning permission in these circumstances. This change allows out of date policies to be brought before the Secretary of State at the planning application level.

There may be a glimmer of improvement. The latter half of 2012 showed a rise in private and social housing starts according to Glenigan who are construction analysts. This however is in stark contrast to the National House Build Council who record a drop in newly registered homes. Frankly the evidence is unclear. What is clear, however, is that construction is a major driver of our economy. The construction industry needs to be in good shape and vibrant if our economy is to stop bumping along the bottom.



Keith Thompson

Keith Thompson is a partner in the Commercial Property department and can be contacted on: 020 8370 2896 or keiththompson@vanderpumps.co.uk.

Ownership of Joint Account on Death Determined by Court

The need for clear thinking about the ownership of bank and other accounts held in joint names was illustrated recently by a case concerning a dispute over an account following the death of one of the joint account holders.

In 1997, Ernest and Mary Cotton, who had three children, Lynn, Russell and Michelle, won £107,000 on the lottery and invested their winnings in two accounts in their joint names with the Coventry Building Society. At about that time, they also made wills leaving their entire estates to each other on the first death and to their three children equally on the second death.

Following Mr Cotton's death in February 2008, the two accounts passed to his wife who, very shortly afterwards, put them into the joint names of herself and her younger daughter, Michelle.

When Mrs Cotton died only six months later, Lynn, her elder daughter, alleged that her mother's interest in the accounts passed under her will to all three children, whilst both Michelle and Russell contended that the accounts passed by survivorship to Michelle and that their mother had made a lifetime gift of the accounts to her.

Evidence was produced which showed that Lynn had been estranged from her siblings and that she had

had a difficult relationship with her parents. Following a serious row with Lynn in the period after Mr Cotton's death, Mrs Cotton had made statements to the effect that she wished all the money in the accounts to pass to Michelle in recognition of the care that she had provided for her and to ensure that none of the money passed to Lynn.

The judge found that, although the accounts had originally been put into the joint names of Mrs Cotton and Michelle for convenience only, the legal effect of the statements made by Mrs Cotton was to confer a beneficial interest in the accounts on Michelle so that she became entitled to the entire balance by survivorship on her mother's death. As the accounts did not pass under Mrs Cotton's will, neither Lynn nor Russell was entitled to share in the balances.



Inderjit Ahitan

Inderjit Ahitan is a solicitor in the wills and probate department and can be contacted on 020 8370 2899 or via email on nderjitahitan@vanderpumps.co.uk.



THE RIGHT TO REFUSAL

The second hand car market is a well known breeding ground for horror stories and buyers will be used to shopping with extreme caution. The Sale and Supply of Goods to Consumers Regulations, along with the Sale of Goods Act 1979 are the legislation most responsible for protecting the 'wronged buyer'.

However many would not be aware of their rights, nor the proper time to seek their enforcement. Under the above Regulations, a customer who has purchased a vehicle that is 'not fit for purpose' is entitled to reject the vehicle, requesting a full refund and recompense for out of pocket expenses.

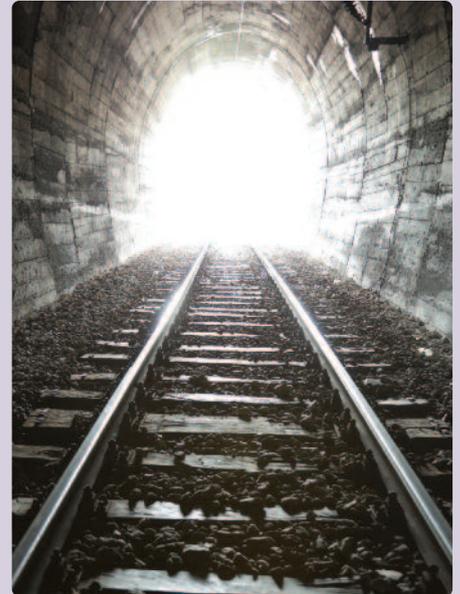
What many do not realise, is that timing is key. Case law and the regulations themselves will normally only provide this remedy where the vehicle is rejected 'at the earliest possible opportunity'. Does this mean the first time the vehicle breaks down, after a garage has spent a month trying to fix it, or the day after purchase?

The worrying answer is that each case is different. The regulations will usually protect those who have acted reasonably and promptly. But there are many variables, how many miles has the customer done, what is

the fault, is it major, when was it reported, how did it occur? All of these factors will alter the chances of obtaining a refund.

The situation becomes even less clear if a garage undertakes some repairs, which the customer willingly allows, but then the vehicle breaks down again, perhaps with another, more serious fault. In these circumstances, can the customer honestly be said to have rejected the vehicle at the earliest possible opportunity?

The answer is often, given the price range and unpredictability of a second hand vehicle, a matter for negotiation. One thing is certain, the regulations themselves only provide protection to those who know how to use them. One wrong move can destroy any chance of a refund, so to protect your interests, legal advice should always be taken.



Gary Beecham

Gary Beecham is a trainee solicitor in the Litigation department and can be contacted on: 020 8370 2870 or garybeecham@vanderpumps.co.uk.

Building Not Divisible for Business Rates Purposes

About the only plus point of empty commercial premises is that they attract relief from rates for a minimum of three months (six months in the case of industrial premises).



Following a recent case in which minimal use of premises for the storage of legal documents was deemed to be 'occupation', which allowed a company to restart the rates holiday after a period of occupation, comes a case which illustrates another aspect of minimal occupation.

The case involved a charity which leased premises in which it installed Bluetooth and Wi-Fi transmitters that were capable of being moved around. The building was otherwise unoccupied.

The lease under which the charity occupied the building transferred the liability to pay rates to it. A charity is entitled to a minimum of 80 per cent relief from business rates. The local authority argued that the parts of the building which had no transmitters were not occupied for charitable purposes and were therefore subject to rates at the full amount.

The magistrates ruled that it was impossible to separate the 'occupied' and 'unoccupied' parts of the building. It was therefore wholly occupied by the charity for business purposes and qualified for 80 per cent rate relief. Even minimal occupation counts as 'occupation' for the purposes of assessing business rates.

In his recent pre-Budget statement, Chancellor of the Exchequer George Osborne announced that, subject to consultation, newly built commercial property completed in England and Wales between 1 October 2013 and 30 September 2016 will be exempt from empty property rates for the first 18 months, up to the 'state aid limits'. In addition, the temporary doubling of small business rate relief has been extended for a further year from April 2013.



Stephen Quy

Stephen Quy is a partner in the Commercial Property department and can be contacted on: 020 8370 2853 or stephenquy@vanderpumps.co.uk.



EMPLOYMENT RETAINER SCHEME

What Do You Get?

Our Employment Retainer Scheme is designed to help you keep up-to-date with changing employment regulations and safeguard against costly claims. We will ensure that you have:

- the correct procedures in place for your personnel
- access to expert advice and support for day to day problems or potentially actionable issues
- a personal service which offers consistency and continuity.

EMPLOYMENT RETAINER PACKAGE

Health Check to ensure that your business has proper employment documents in place

Free standard policies:

Disciplinary Rules and Procedure	Capability Procedure
Grievance Procedure	Equal Opportunities Policy

Legal Advice Helpline for assistance when needed to help guide you through issues*

Handling grievances	Alteration of contract terms
Disciplinary warnings and dismissals	Redundancy procedures and payments
Discrimination or harassment complaints	Allegations of constructive dismissal
Etc.	

*NB: this does not include employment tribunal claims, drafting non-standard contracts, share/asset purchase agreements and directors' service agreements

Employment News – insights into the development of employment law

Easy to read – no technical jargon	Essential information
Practical tips	Delivered to you via email or social media

For an annual fee, you will benefit from a programme that comprises: a comprehensive health check, access to Vanderpump & Sykes for legal assistance (we offer 3 hours per month or 3 hours per quarter) and regular bulletins. All prices quoted are exclusive of VAT.

THREE HOURS PER QUARTER

Number of Employees	Annual Fee
25 or fewer	£1,000
between 26 and 50	£1,200
between 51 and 100	£1,500
between 101 and 200	£1,800
between 201 and 500	£2,200
over 500	Price on application

THREE HOURS PER MONTH

Number of Employees	Annual Fee
25 or fewer	£2,000
between 26 and 50	£2,500
between 51 and 100	£3,000
between 101 and 200	£3,500
between 201 and 500	£4,000
over 500	Price on application

**To subscribe to the Employment Retainer Scheme contact
Richard Stephens on: 020 8370 2875.**

Relationships can seem indestructible when they begin. The feeling of being "in love" can make it seem disloyal to raise the question, 'what do we do if it all goes wrong?'

WHAT TO DO WHEN LOVE GOES WRONG

For information on cohabitation agreements, fixed fee divorces and client discount services, contact the family department on: 020 8370 2898

VANDERPUMP & SYKES SOLICITORS

Safeguard Against Heartache

With high divorce rates and ever increasing numbers of people cohabiting, it makes sense to consider what your position would be should a relationship end.

Steps can be taken to protect your position should the relationship fail. Making it clear who owns what from the outset.

You may not realise that unmarried couples are not protected by the laws on intestacy. It is possible that you could live with someone and, unlike a wife, husband or civil partner, still not automatically inherit their estate, should they die before you.

At Vanderpump & Sykes entering into a Cohabitation Agreement will ensure that it is clear how your combined assets should be divided – if it become necessary

The agreement can make it clear who owns what and can include, among other things, information on bank accounts, property and others specific items.

Contact our family department for further information on how to safeguard against possible heartache later down the line.

Clients who have recently instructed us in residential conveyancing receive a 20% discount

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Lough Point, 2 Gladbeck Way
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www.vanderpumpandsykes.co.uk Email: vs@vanderpumps.co.uk

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Family or Relationship Issues...

...We can help

Family and Relationships
Whether starting a new relationship or breaking up with your partner, our legal experts can help you deal with the issues you face, providing information, advice and support you can trust, so you can take control and start building a brighter future.

- Divorce
- Civil partnerships
- Separation
- Family finances
- Child issues including maintenance
- Injunctions
- Adoption and surrogacy
- Pre-nuptial agreements
- Cohabitation and unmarried couples
- Family mediation
- Collaborative law
- International aspects

Our family law team offer legal advice sessions which can fit around your working week. We also offer late night sessions on Wednesday's until 8pm by appointment only.

Staff of our existing business clients receive an additional benefit of the first hour's consultation FREE.

Contact us and mention your company's name to qualify for the first hour's free consultation.

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Fixed Fee Divorce £595*
plus VAT and court costs

Your local family law specialists will manage your divorce at a low cost, enabling you to have greater financial control.

Whether you are divorcing someone or they are divorcing you, our service provides a cost effective but still professional solution.

Our 'fixed fee divorce package of £595 + VAT and court costs, covers you from your initial instruction through to the Decree Absolute.

We manage the whole process for you.

Our service is designed for those who want the assurance of having their divorce handled by an experienced high street solicitor without the high fees charged by other solicitors.

Our family law team offer legal advice sessions which can fit around your working week. We also offer late night sessions on Wednesday's until 8pm by appointment only.

Contact our family department for further information. We also provide a range of practical services to assist you through a difficult process.

***Applies to standard divorce proceedings and excludes children and financial representation.**

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With high divorce rates and ever-increasing numbers of people cohabiting, it makes sense for people to consider what their position would be should a relationship end. It is sensible therefore to be prepared so as to avoid any surprises down the line. Before marrying or entering into a civil partnership, steps can be taken to protect your position should the marriage/partnership fail.

One way you can protect your assets is to sign a pre-nuptial agreement. Although the UK courts have previously refused to enforce 'pre-nups', they can be highly persuasive. A recent case suggests that they can be effective, provided both parties have entered into the agreement with full knowledge of its consequences and, where appropriate, with independent professional advice.

If you are already married or in a civil partnership, steps can still be taken to safeguard your position. A post-nuptial agreement can be made whereby you agree upon the division of assets should you separate. To be enforceable, the courts will wish to ensure that the agreement is fair.

If the marriage subsequently breaks down the parties can consider commencing divorce proceedings or entering into a separation agreement. Before a divorce will be granted by the courts, the marriage must have irretrievably broken down. Proceedings can be commenced on the grounds of adultery, unreasonable behaviour, desertion, two years' separation with consent or five years' separation. We can advise you how best to proceed and now offer a fixed fee divorce for straightforward, undefended proceedings.

Civil partners enjoy virtually the same legal privileges as married couples. As is the case with marriage, a civil partnership can only be ended by: legal dissolution if the relationship has irretrievably broken down, by annulment, or when one partner dies.

As far as cohabitants are concerned, in reality, they have very limited rights when a relationship breaks down. However, steps can be taken to ensure that who owns what, is clear from the outset.

Unmarried couples are not protected by the laws on intestacy. It is possible that you could live with someone for all of your adult life and, unlike a spouse or civil partner, still not automatically inherit their estate should they predecease you.

To avoid such problems, preventive measures can be taken such as entering into a Cohabitation Agreement. This is a contract between the parties agreeing how their combined assets should be divided should this become necessary. A cohabitation agreement can make it clear who owns what and can include, among other things, information on bank accounts, property and other specific items.

Agreements such as those mentioned above can save a lot of pain and heartache when a relationship ends.



Liz Orman

Liz Orman is a solicitor in the family department and can be contacted on: 020 8370 2877 or lizorman@vanderpumps.co.uk



HUMAN RIGHTS DO NOT JUSTIFY POSSESSION

When a council tenant, who suffered from depression, moved into his late brother's council flat after he had died, the council was none the wiser for a considerable period of time. When they discovered his circumstances, the council wrote to the man (who had built up rent arrears on his own flat) saying that they would not be willing to grant him a secure tenancy of his brother's flat and advised him to return to his own flat.

He failed to heed this advice and served a notice to quit on the council in respect of his flat. The council then sought possession of his brother's flat.

When the court refused to grant the council possession of the flat on the basis that evicting the man would amount to a disproportionate interference with the right to respect for his private life, family life and his home as guaranteed under Article 8 of the European Convention on Human Rights, the council appealed.

In the original decision, the judge took particular account of the fact that the man suffers from depression and would find it hard to find a new flat. He was also popular with his neighbours.

The Court of Appeal reversed the decision of the lower court on the basis that the man was a trespasser and it would require 'quite exceptional circumstances' before a trespasser could succeed with an argument that he should be granted possession on human rights grounds.

This was not one of those circumstances.



Jenny Howe

Jenny Howe is a solicitor in the litigation department and can be contacted for advice on matters relating to tenancies, for both landlords and tenants, on: 020 8370 2890 or email jennyhowe@vanderpumps.co.uk.

Disclosure of Anonymised Data Does Not Require Consent

The Data Protection Act 1998 is designed to protect the security of personal information, which is information that it is 'reasonably likely' could be used to identify individuals when matched with other data.

The Act requires that data must be processed for specific, explicit and legitimate purposes only and individual data can be processed only with the consent of the individual or where it is necessary for the purposes of the legitimate business interests of the data controller.

The Information Commissioner's Office (ICO) has recently issued a draft code of practice indicating that consent to process individual information is not necessary when a thorough anonymisation process has taken place such that the anonymised material cannot have any direct impact on any individual and there is a system for taking into account the objections of any person who is opposed to the inclusion of their data in the anonymisation process.

The draft code of practice is part of a consultation process being carried out by the ICO, which will result in a formal code of practice being published, probably later this year.



The code also provides practical advice on the methods for anonymising data and the associated risks of publishing that data. If you are considering making data collected from individuals public in anonymised form, following the ICO's guidance is important. Whilst anonymising documents is time consuming, it is usually easier and more straightforward than obtaining the consent of individuals under the UK Data Protection website.

Clients are reminded that all processors of personal data in the UK must register as data controllers with the Information Commissioner. 'Processing' includes obtaining, recording, holding, using, disclosing or erasing data. This involves completing a form available from the Information Commissioner's office or website and an annual payment of £35. Failure to notify the Commissioner is a criminal offence. The form requires the data controller to provide a number of details, including its name and address, the categories of data subjects, the type of data that will be processed and the purposes.



Jonathan Goldsmith

Jonathan Goldsmith is a solicitor in the Company Commercial department and can be contacted on: 020 8370 2855 or jonathangoldsmith@vanderpumps.co.uk.

Is the Property Market Doomed in 2013?



With the UK emerging from a double dip recession in 2012, could it possibly be the case that house prices will rise in 2013?

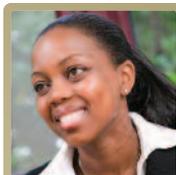
The Bank of England's Funding For Lending Scheme which provides cheap funding to lenders so they can in turn increase their lending, has seen mortgage rates fall in recent months. However the benefits of low mortgage rates have generally been reaped by those who have substantial deposits. For most would be first time buyers, the chances of owning a home are unfortunately getting slimmer: With rents at an all time high and stagnant or lower wages, most would-be first time buyers effectively find themselves with less money to save towards the purchase of a house. Additionally would be first time buyers have to contend with tougher lending criteria, less new homes being built and although there may be better mortgages deals, these are generally available to those with higher deposits. Halifax predicts that house prices are likely to remain subdued in 2013 as first time buyers continue to struggle to get on the property ladder.¹

In December 2012, the Guardian² conducted a poll of Estate agents' predictions of house prices. The findings being that 19% predicting prices will rise, 37% predicted the prices would stay the same whilst 44% suggested that the prices will fall.

Martin Ellis, the Halifax house price index economist, says: "Conditions are likely to remain as they are. In 2013 prices are again likely to end the year at levels close to where they began, with the market continuing to lack any genuine direction."³

However it is not all doom and gloom, there are those that predict that the arrival of Crossrail services in 2018 will trigger an influx of buyers for homes near new stations.

In conclusion, the housing market is likely to stay in the same levels as 2012, neither rising nor falling significantly.



Ruth Muthoni

Ruth Muthoni is a solicitor in the conveyancing department and can be contacted on: 020 8370 2897 or email ruthmunthoni@vanderpumps.co.uk.

¹ <http://info.moneyweek.com/special-free-reports/property-market/?infinity=gaw>

² <http://www.guardian.co.uk/money/2013/jan/07/halifax-stable-house-prices-2013>

³ <http://www.guardian.co.uk/money/2013/jan/07/halifax-stable-house-prices-2013>

Excellence from your LawNet firm

OUR COMMITMENT TO YOU



Firms such as Vanderpump & Sykes, who carry the LawNet Mark of Excellence, are committed to providing clients with the highest standards of care and advice.

The LawNet Mark of Excellence is an internationally recognised quality mark, with independent evaluation to drive continuous improvement.

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As a LawNet member firm, Vanderpump & Sykes Solicitors are part of a network of over 2,000 lawyers across the UK as well as links across Europe through the Eurojuris network.

Everyone in the network is committed to sharing expertise, knowledge and best practice. This ensures clients benefit from the experience and resources of not just our firm but the entire network.

Visit www.lawnet.co.uk for more information.

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YOUR LEGAL NEEDS

Established since 1899, Vanderpump & Sykes LLP is a well respected North London partnership offering a wide range of services to business and private clients. A friendly, dynamic firm, we employ people who fit within our traditions of integrity, excellence and commitment to clients. Our aim is to keep our clients for life, by delivering a high level of customer service and technical expertise.

If you would like to know more about the firm and its services please contact us at:

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