

## UK house prices fall for the first time this year

House prices in Britain have fallen for the first time this year, according to figures from the online estate agency, Rightmove.

The average asking price for a home in June was £272,275. This dropped to £270,159 in July – a 0.8% reduction.

Houses in Greater London were the most durable in holding their value, suffering just a 0.4% drop. Properties in the North and East Midlands suffered a 1.9% drop in value.

The fall in prices is thought to be the result of tighter regulation on mortgage eligibility. The Bank of England took steps to curb reckless lending amid fears that the London housing market could pose a serious threat to the UK economy.

Banks and building societies have been told that only 15% of their total loans should be at 4.5 times the borrower's income.

Other factors could include concerns about interest rates which are likely to rise. Miles Shipstone, analyst at Rightmove, said: "A price fall in July is not unexpected as prospective buyers turn their attention to the summer holidays, not to mention the distraction of an engaging World Cup.

"Buyer confidence may also have taken a knock with suggestions that mortgages are becoming harder to get, and repayments may get more costly sooner than originally anticipated, should the rumours of an interest rate rise before the next election come true."



Meanwhile, the government has announced a change to the Help to Buy mortgage guarantee scheme amid concerns over rising house prices. New loans granted under the scheme must now be less than 4.5 times the borrower's income.

The aim is to prevent house prices rising too quickly and to ensure that borrowers will still be able to pay back the mortgage if there is an increase in interest rates in the coming two years.

So far, the Help to Buy schemes have enabled 35,000 people to buy their own home.

Please contact us for more information about the legal aspects of buying and selling a home.

## Court settles dispute over flat and grandmother's will

A grandmother's will, which led to a family dispute over the ownership of her flat, has been upheld by the High Court.

The grandmother had originally intended to leave the flat to her daughter and granddaughter and had written this into her will.

When she was 90 years old, she moved in with them because her eyesight and health had deteriorated, although she could still cope mentally. However, tensions arose between the three of them so she moved back to her flat.

She later updated her will after she decided that her daughter didn't need the flat because she had recently bought a house. She decided to leave



the flat to her other daughter instead. This led to an argument with her granddaughter who had believed the flat would eventually come to her.

The grandmother wrote to her granddaughter explaining that she had updated her will because circumstances had changed since it had first been written. She later died in a nursing home after a deterioration in her mental health.

The granddaughter challenged the will saying that her grandmother had lacked testamentary capacity due to

medication she was taking, and also that she had been unduly influenced by her other daughter.

The court ruled that there was no reason to doubt the grandmother's testamentary capacity as she was of sound mind at the date the will was executed. She had written to her granddaughter in rational terms to explain the reason for the changes.

There was no evidence to suggest that the other daughter had exercised an undue influence over the grandmother, who had proved to be able to stand her ground during the disagreement with her granddaughter.

Please contact us if you would like help with drawing up a will, or more information about wills and probate.

# Delays over powers of attorney causing stress

Delays in the process of setting up lasting powers of attorney (LPA) are causing considerable stress and expense for thousands of families, according to a report in the Times newspaper.

An LPA is a legal arrangement that enables you to authorise someone you trust to make decisions on your behalf should you lose mental capacity at some point in the future.

LPAs can be extremely valuable in helping your family look after your affairs if you are no longer able to do so yourself.

The Times report says more people are now applying to register LPAs, leading to considerable delays at the Office of the Public Guardian, which administers the process. Lawyers say applications are currently taking up to 14 weeks and in some cases even longer.

The delays don't matter particularly to people setting up LPAs in advance in case they need them in the future. However, the long application process can cause problems for families caring for a loved one who has lost capacity without having an LPA already in place.



In such cases, they may find it difficult to access bank accounts, pay bills or arrange the sale of property or other assets – all of which may be needed to organise finances correctly or fund treatment.

The best way to avoid delays is to set up an LPA in advance. You may never need it but you will have the comfort of knowing that if you ever do, it is already in place.

Please contact us if you would like more information about lasting powers of attorney.

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## PA unfairly dismissed because of affair with her boss

A personal assistant who was sacked after having an affair with her boss has won her claim of unfair dismissal.

The PA lost her job after the affair was discovered by the boss's wife.

The PA, who cannot be named for legal reasons, had been in a relationship with her boss who was chief executive of the company.

During the relationship he had moved her into a flat in London's fashionable Belsize Park, bought her a car and taken her on expensive holidays. He tried to dismiss her when his wife received an anonymous letter revealing the affair.

The PA told the court: "He said that his wife was putting pressure on him to sever all ties with me and didn't know



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why I was still working there if the relationship had finished."

The chief executive's children stopped talking to him because of the affair and he became more hostile towards his PA. He offered her a £50,000 tax free redundancy package but she refused to leave.

Two months later he sacked her in an angry phone call.

She was evicted from her flat in Belsize Park and became depressed. Her depression was disabling and she was unable to look for a new job.

The PA brought an action against the company for unfair dismissal, harassment and sex discrimination.

During the trial, details emerged of a culture of sexism that existed at the company.

The judge said that the culture of sexism didn't in itself amount to harassment but did show that the company had a "complete disregard for modern employment law".

The PA was awarded £34,195 to cover her loss of earnings and future loss of earnings, unfair dismissal and harassment.

Please contact us if you would like advice about the issues raised in this article or any aspect of employment law.

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## Daughters don't have to see their father against their wishes

A father has been denied direct contact with his daughters because they insisted that they didn't want to see him after he separated from their mother.

The sisters were born in 2003 and 2006. They both moved out of the family home with their mother when their parents separated in 2008.

The sisters became distressed every time the subject of visiting their father was raised. They were both insistent they no longer wanted to see him. The father applied for direct contact but the judge rejected the application.

An indirect contact order was issued instead, meaning the father couldn't see his daughters personally, but could have messages and presents passed on to them by a third party.

The judge encouraged the mother to remain in contact with the daughters' paternal aunts, with whom she had remained on good terms, but added that it wasn't compulsory.

The father took the case to the Court of Appeal but it upheld the decision. It ruled that the judge had not erred in his decision that a direct contact order

would not be to the daughters' benefit. It would be wrong to force them to see their father against their wishes.

The judge had considered all possible alternatives, listened to the evidence of expert child psychologists and proceeded in the correct manner.

Please contact us for more information about the issues raised in this article or any other aspect of family law.



# Couple allowed to tear up badly drafted trust

A couple have been granted permission to tear up a badly drafted trust, after an error left the wife unable to benefit from it.

The husband had set up the trust several years ago, with the intention of it providing for his wife and children in the event of his death. He appointed his bank as the trustee.

He wrote a letter to the bank stating his wishes that the trust was to benefit his wife and children in a tax efficient manner in the future.

The problem arose when the wife made a payment into the trust. The payment meant that, according to law, she became a settlor and could therefore no longer be one of the beneficiaries.

This error was recognised and in an attempt to rectify it, the couple realised there was also a major problem with the terms of the trust. It stated that any proceeds could be paid to the beneficiaries, but not to the husband or his wife.

This was the opposite of what the husband had wanted. The trust had been written with both him and his wife as the settlors, whereas he wanted his wife to be one of the beneficiaries.

The couple took the case to the High Court, and requested permission to amend the trust in line with their wishes.

The court stated that in cases such as this, it had to be satisfied that it was just and appropriate to grant permission to



rescind the settlement. It would only do so if there was evidence that the mistake was so important that it severely affected the terms of the trust.

In this case the court granted permission, citing the letter written by the husband as a fair indication that errors had been made in the drafting of the trust.

Please contact us if you would like more information about trusts and the issues raised in this article.

# Children to be given a greater say in family courts

The government has announced that children will be given a greater voice in the family justice system so they can express their opinions about disputes that affect their lives.

Ministers say children as young as 10 will be able to make their views known to the judge dealing with their case.

It follows a campaign by the Family Justice Young People's Board, which believes that it is wrong for decisions to be made that will affect young people's futures without them having a say themselves.



The government also plans to help children find an appropriate mediator for cases that affect them.

Family Justice Minister Simon Hughes said: "Children and young people must by law have their views heard before decisions are made about their future, and where decisions are made that will impact them. At the moment, it is still too often that their views are not heard.

"Our commitment to giving children the chance to speak to a judge and make clear their views means children will not only be seen in family courts but they will have their own voice heard. This will put them firmly at the heart of the Family Justice System."

The Ministry of Justice will work closely with the Children and Family Courts Advisory and Support Service, and Family Court judges to implement the change, which will be made as soon as practically possible.

Please contact us for more information about the issues raised in this article or for advice on any aspect of family law.

# Sacked employees win race claim against care home

A care home has lost its appeal against a race discrimination claim made by two of its dismissed employees.

The case involved a number of staff including an African care worker, an Asian deputy manager and a senior manager, who was white.

The dismissals followed the inappropriate administration of medication to a patient in the home.

The home's regulations stated that a supervisory document had to be signed by a doctor before a patient's medication was changed, and had to be checked each time before staff could administer treatment.

On one occasion, the document for one of the patients went missing. The deputy manager, who was Asian, volunteered to sort out the relevant documentation, even though it was the responsibility of the manager.

The following day, the African care worker, administered medicine to the patient even though the document had still not been obtained. The manager witnessed the treatment, and the deputy manager signed it off.

The care home launched an investigation which resulted in the dismissal of both the Asian deputy manager and the African care worker. The white manager received a warning.

The two dismissed staff members sued the care home for racial discrimination. They said the manager had been let off with a far more lenient punishment, when she was effectively just as guilty.

The tribunal found in favour of the dismissed workers.

The Employment Appeal Tribunal has now upheld the decision. It stated that the tribunal had been entitled to find that the difference in treatment given to the manager had not been adequately explained.

Please contact us for more information about the issues raised in this article or any aspect of employment law.

# Leading judge lays out plans for divorce reform

One of Britain's leading family law judges is calling for changes in the divorce process that would take most cases out of the courts altogether.

Sir James Munby is the President of the Family Division of the High Court. He wants uncontested divorce cases without any claims over money or children to be settled in a national processing centre.

Sir James has written to family lawyers stating that his aim is to simplify and streamline the process to make it more user friendly.

There are 120,000 divorce cases every year in the UK.

It's hoped that the changes would make the process more straightforward and less acrimonious, thus causing as little trauma as possible at a highly stressful time.

Sir James said: "Divorce, as a process, is in large measure administrative, albeit conducted judicially by district judges. It is a process which lends itself to handling in a few places and perhaps, eventually, in a single national processing centre."

Resolution, the association of family lawyers, said it supported the idea together with anything else that would "make the divorce and separation process more straightforward



and easier to navigate for separating families - and less acrimonious".

Sir Paul Coleridge, founder of the Marriage Foundation, said: "Most judges and lawyers would see this as the logical conclusion to where we have got to. But there is a risk that people will get the wrong impression that divorce is being made easier. It is not."

Sir James has set up a working group to see how such changes might be implemented. We shall keep clients informed of developments.

Please contact us for more information about the issues raised in this article or any aspect of family law.

## Boy awarded £24,000 after falling through school fence

A 14-year-old boy who fell through a fence at school has been awarded £24,000 compensation.

The boy was eight at the time of the accident. He was knocked unconscious when he fell several feet through a gap in the fence that separated the upper and lower levels of the school playground.

He suffered a fracture of the parietal bone and some bleeding on the brain. He was kept in hospital for six days

and didn't return to school for three weeks. He was unable to play sports for six months and had occasional nosebleeds for about a year after the incident.

After four years, a neurologist assessed the risk that he would develop epilepsy at 2.5%

The boy's family brought an action against the school saying it had breached the Occupiers' Liability Act 1957 and the Education (School

Premises) Regulations 1999 by failing to ensure pupil safety.

The school admitted liability and agreed to an out-of-court settlement of £24,000.

If you are injured as a result of someone else's negligence you may be entitled to compensation.

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