

McCormicks Briefing

Autumn 2020

Reasons to be
cheerful

Where there's a
Will there's a way

Buoyant property
market



McCormicks
SOLICITORS

What will the new legislation around the witnessing of Wills mean in practice?
Partner Elaine Lightfoot explains.

An understandable reaction to the COVID-19 pandemic has been the vast increase in Will instructions received since late February this year, with many firms seeing a rise of up to 70 per cent as individuals, often those elderly and/or vulnerable, sought to make new Wills or update existing, outdated Wills.

One practical difficulty during lockdown (and on a continued basis for those still shielding) is how to ensure Wills are signed and witnessed in accordance with the Wills Act 1837 which states that for a Will to be valid it must be signed in the presence of two independent witnesses both of whom need to be present at the same time as the Testator signs. Witnessing via video messaging is not permitted under the Wills Act and it was felt by many, particularly in light of the pandemic, that review of this outdated legislation required immediate attention.

Accordingly, The Law Society, the Society of Trust and Estate Practitioners (STEP) and the Ministry of Justice have been working on ways to enable Wills to be witnessed remotely, for example via platforms such as Zoom or FaceTime.

New approach to Wills



The Law Society has, as a result, issued updated guidance in anticipation of the Government's agreement to introduce new legislation to allow Wills to be witnessed remotely for the next two years. Legislative changes to the Wills Act 1837 are therefore to come into force in September and be backdated to 31 January 2020 meaning that any Will witnessed remotely from that date will be legally accepted as having been signed and witnessed validly. The

changes are currently to remain in place to 31 January 2022, however, this may be extended or shortened if it is considered appropriate. After this date, Wills must return to being completed with two witnesses being physically present at the signing of the Will (a clear line of sight being required) and so it is possible for Wills to be witnessed in a socially distant manner in any event.

Under the new legislation, the quality

of the sound and video must be sufficient to see and hear what is happening at the time. The witnesses must see the Will being signed in real-time and pre-recorded videos will not be permissible. It is recommended that the video-signing and witnessing process should be recorded and the recording retained. This may assist a Court in the event of a Will being challenged, whether it be in terms of whether the Will was made due to undue influence or

concerns surrounding lack of capacity, or if the Will was made in a legally valid way.

It is recommended that the use of video technology should remain a last resort and, where possible, Wills should be completed with physically present witnesses. As a firm, we continue to advise our clients how this can be achieved. All existing conditions regarding the witnesses still remain, for example, any witness should not be a beneficiary under the Will as any gift to them will become void.

The changes to the legislation will be welcomed by those shielding but, as with all Wills drafted by professionals, extreme care is still required in assessing capacity and undue influence for all testators and such issues are only heightened when unable to meet with clients personally.

Partner Elaine Lightfoot heads our Private Client team.

Her areas of expertise include Wills, Trusts, Settlements, Inheritance Tax Planning, the Administration of Estates and Trusts of all sizes and complexities, together with Lasting Powers of Attorney and Court of Protection matters. Elaine also advises in respect of care home fees planning.

Elaine also handles work for a number of clients in Agriculture and Rural Affairs, guiding them on the protection of their wealth and the successful handing on of it to future generations. She is also active in the Charities field, advising a number of charities on their formation and operation.



Elaine Lightfoot

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Partner Philip Edmondson has been made a Board member by British Weight Lifting.

Weight lifting title

Philip, who is our Head of Commercial and Sports Litigation Services, is a new Non-Executive Director and will take up his position with immediate effect.

He has extensive experience in matters involving breach of contract, sports disputes (arbitrations, tribunals and FA, Premier League and EFL regulatory matters), insolvency, partnership disputes, professional negligence, HM Land Registry and matters with multi-jurisdictional elements. His particular

specialisms are in sports and professional negligence-related matters.

Ashley Metcalfe, CEO of BWL, said: "I am delighted that Philip has been appointed to our Board. His legal knowledge and expertise in commercial and sports litigation and regulation will be invaluable as our organisation continues to move forward and our sport continues to grow and engage with a much broader and more diverse customer base. I look forward to working with him to drive British Weight Lifting forward."

Philip Edmondson said: "I am excited and honoured to join the team at BWL. Having met the Board, I can see we have a great mix of personalities and expertise to help continue to grow and improve the sport and bring it to new audiences."



Partner Philip Edmondson joins the British Weight Lifting Board.

It has not always been easy to find reasons to be cheerful in what has been a challenging and difficult year for so many.

Reasons to be cheerful

While life begins to return to normal in some respects, there are still many "unknowns" ahead, both for individuals and businesses and, as we have seen, the situation can change from day to day.

As a firm, McCormicks' culture is one of taking a positive attitude to the challenges we face in both the legal field and the wider world and I would like to reiterate my thanks to my colleagues for their unceasing support and hard work in the difficult circumstances we have all faced in recent months. I also thank our clients for their understanding of the new ways in which we have to work, such as remote meetings and video Will-signings.

Whatever else 2020 brings, we still have some major achievements to mark, particularly in the world of football which is so close to our hearts. Congratulations to our friends and clients, Leeds United on promotion to the Premier League and Harrogate Town on attaining the Football League for the first time

in their 106-year history! Both these achievements would have normally be reason for weeks of celebrations in our region and it is a shame that both clubs' loyal fans were unable to watch the key games from the terraces. However, both clubs will undoubtedly continue the celebrations once they are able to welcome fans back.

Leeds' promotion will have a significant economic impact for the city and the region. This, too, is to be welcomed as businesses strive to grow and survive the impact of COVID-19.



Harrogate Town have another chance to play at Wembley if they are able to reach the final of last season's FA Trophy which goes ahead on 27 September and our support is with them all the way. The final will be a pilot event for the safe return of fans to sporting events so they may



Peter McCormick OBE

even have their home supporters on hand.

Even closer to home, our Conveyancing Executive Kim Stockburn, is seeing unprecedented levels of residential housing

transactions, which is also an encouraging sign of the economic health of our region.

I hope that you, too, can find reasons to be cheerful. We will get through this together!

Peter McCormick OBE



Head of the Corporate and Commercial team, Partner James Towler.

Commercial commendation

McCormicks has been named Best Commercial Law Firm in Yorkshire in the

sixth annual Legal Awards organised by Acquisition International. According to the digital

business magazine, awardees must be able to demonstrate expertise within their given field,

dedication to client service and satisfaction, and commitment to excellence and quality.

Despite warnings of a recession and concern about job losses, sales of residential property are bucking the trend. As Zoopla reports that sales agreed on its portal were 76 per cent higher than the five-year average, our Conveyancing Executive Kim Stockburn reports business is brisk for all agents.

“Buoyant” residential property market

We are handling about four times the volume of our normal residential conveyancing workload for this time of the year and this level of activity started even before the stamp duty “holiday” came into force at the beginning of July so it is safe to say that it is not all down to that, although that does make potential purchases even more attractive to buyers.

A lot of people were part way through the conveyancing process when lockdown happened in March and their plans had to be put on hold, so obviously there was a backlog in dealing with these once restrictions were eased. However, I am pleased to say that all these matters have now been completed and we have not seen a single sale fail because of the delay.

I think lockdown has given people a lot of time to think about what they actually want in life and from their homes and this has meant decisions being made perhaps several years before they originally imagined.

Buyers are behaving in a very confident manner,

being brave and bold and willing to take a risk to achieve what they want. And this certainly is not limited to the Harrogate area, where the market is traditionally strong, but across the country in our experience, making for a very buoyant market.

The stamp duty holiday is undeniably attractive

for those wavering about whether to act now or in the future.

As always, we are very happy to help guide our clients through the maze of buying property, whether they are upsizing or downsizing or looking for a bigger garden or better connectivity for working from home.

Kim Stockburn is the firm’s Conveyancing Executive and heads up residential property matters at McCormicks.

Kim, who has more than 30 years’ experience, deals with all aspects of residential conveyancing, including house sales and purchases, land transactions, remortgages and transfers of equity.

She applies her knowledge and expertise to take the stress out of moving home, whatever the circumstances.

Kim joined McCormicks in March 1987.



Kim Stockburn



...lockdown has given people a lot of time to think about what they actually want in life and from their homes...

Senior Partner Peter McCormick has been re-elected to a number of roles in football this summer.

Football roles



He was unanimously re-appointed by the 20 Premier League Clubs at the AGM to the F.A. Board, F.A. Council and the Professional Game Board of the F.A. (as Chairman) to represent the Premier League.

He was also unanimously elected Vice Chairman of the F.A. as well by the

F.A. Council, a role he will be undertaking for the fourth year.

Peter is an internationally recognised expert in Sports and Media/Entertainment law and is ranked by the leading guides to the legal profession as one of the top sports lawyers in the UK. He has been ranked

as one of the “Leading Individuals” in Yorkshire and the Humber in every edition so far in the UK Legal 500, a leading guide to the legal profession.

He has been a member of the Legal Advisory Group of the Premier League since 1996 and Chairman of the group since 2008.



Senior Partner Peter McCormick

Employment law helpline

The helpline will offer advice for a fixed monthly payment, with cost based on the number of employees and wage roll.

Head of Employment Law Iain Jenkins said: "We have a number of services we can offer to employers: these now include a fixed cost helpline for day-to-day HR and employment advice. It means our clients can fix their monthly cost for this work. We are also available to deal with those more complex problems where other HR providers

may be out of their depth. These could include work covering employment and business transactions, restrictive covenants, breach of contract claims, work relating to senior employees, overseas employees etc. This means we are a one-stop shop for all you need."

The helpline is the latest addition to a variety of services for employers, which includes a software package designed to make HR record-keeping simpler, covering a range of issues such as

holidays, working time, expenses, appraisals and policy documents, all available via mobile phone.

In addition, McCormicks can also provide insurance cover for legal costs and awards in the event of a claim in the Employment Tribunal.

To find out more, contact Iain on 01423 530630 or at i.jenkins@mccormicks-solicitors.com



Iain Jenkins is Head of Employment

He advises on all areas of contentious and non-contentious employment matters including:

- ▶ Settlement agreements and negotiated exits
- ▶ Directors and boardroom disputes
- ▶ Claims for unfair/wrongful dismissal, discrimination and whistleblowing in the Employment Tribunal

- ▶ Drafting and negotiating contracts of employment and service agreements
- ▶ Advising on grievance and disciplinary matters and the termination of employment
- ▶ TUPE advice and advising on employment aspects of corporate and property transactions
- ▶ Advising on the implementation



Iain Jenkins

and enforcement of restrictive covenants and confidentiality obligations

- ▶ Trade union issues, redundancy and restructuring
- ▶ Partnership matters and disputes

Iain has advised businesses across a range of sectors including technology, manufacturing, financial services, recruitment,

transport and logistics and health and social care.

Iain is a CEDR accredited mediator and an accredited workplace mediator. He can also be instructed as an independent investigator in relation to employment issues. He also advises on GDPR and Data Protection matters in employment and commercial work, including compliance and data breaches.

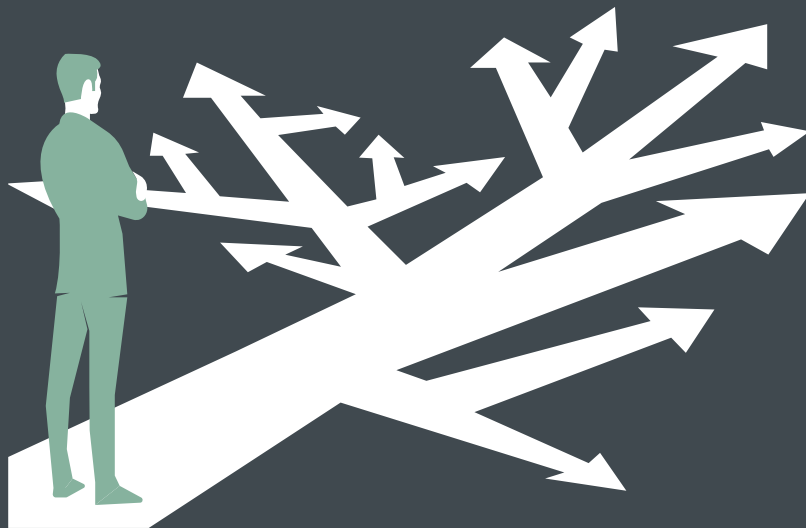
It seems as though the end to challenges on the employment front is not yet anywhere in sight. Head of Employment Law Iain Jenkins takes a look at some of the future possibilities.

Writing this before the end of furlough, it is difficult to draw any conclusions about the impact of Covid-19 on the workplace and workforce. We have already had redundancies across a number of industries and obviously there is concern that there will be more once the support of the furlough scheme ends. Most people are of the view that the economy will not have an immediate bounce-back.

Some say that the virus has just accelerated the introduction of working patterns which have been coming for some time. Previous suspicions about working from home have been put to bed when the whole office was required to do it and it seems to have worked well. Many big companies are now saying that this will be a permanent change and their need for office space will be considerably reduced. What does this mean for the big city centres and those businesses who support all those office workers?

Should a communal and collective response to a global pandemic where we have all had to roll our sleeves up and adapt suddenly become the new normal? What if employers want employees to come back into the office? This may lead to health and safety concerns around not only being at work but also getting to work, which only an effective vaccine can deal with. The Government has encouraged people to return to the workplace where possible but employers should deal carefully with concerns raised by employees.

Where do we go from here?



For a number of years employees have also had the right to make a flexible working request once they have 26 weeks of continuous service. This can cover a change to the hours they work, a change to the times they are required to work or a change to the place of work (as between home and any workplace). This already means that there is scope to make a formal request for part-time working, full-time working (if currently part-time), annualised hours, compressed hours, flexi-time, home working, job sharing and many other variations. Employers may decide they want to get as many

people as possible to the workplace, however if faced with such requests they may find it difficult to refuse them if things have run smoothly over the last few months.

Home working has its own complexities. The occasional afternoon or day working from home is different from a permanent arrangement. Employers are still responsible for the health and safety of their employees when providing equipment and agreeing working arrangements. Employees may want to consider what insurance provision they have when working from home.

Employers will also want to consider issues around GDPR and confidentiality among others. These questions can be covered in a homeworking policy.

Some may not have relished the chance to work from home and

may be itching to get back into the workplace. Working from home can be difficult where there are other people in the household and develop its own domestic stress and strains. On a more serious level there has been talk of the impact of the virus and the various lockdowns on those who are victims of domestic abuse. There is currently a Government consultation around what employers might do to give survivors of domestic abuse support in the workplace.

Virtual meetings cannot really replace day-to-day face-to-face contact with colleagues when you can approach somebody for a quick answer to a difficult question or put an arm around someone's shoulder when needed. I cannot see the virtual Christmas party being much fun!

The virus may have changed investment plans for businesses, with more AI and production by robots. Whilst this may hedge against future pandemics and possibly increase productivity, there will be an impact on employees. Again, this has been much discussed over the last decade but perhaps these changes will accelerate and in turn lead to social changes such as a requirement for a universal income or compulsory early retirement to give the younger workforce more opportunities. Working life is probably part of our DNA but that may change over a couple of generations.

One thing is certain is that businesses and employees will adapt to whatever the new normal is. We should remain optimistic.



Iain Jenkins

The impact of COVID-19 on the criminal court system has been significant. Solicitor Brian Nuttney explains how long some might wait to see their cases heard.

Wheels turning slowly

If the wheels of justice are said to turn slowly, that is especially so since the COVID-19 lockdown.

That is an observation, not a criticism, but one of which anyone hoping for a swift resolution to their motoring matter, for example, needs to be aware.

McCormicks' criminal defence solicitors have continued to represent their clients during the crisis – attending police stations and courts as required.

And we have been

impressed by, and grateful for, the efforts of police officers/staff and court personnel to keep our clients and ourselves safe.

Nevertheless, many clients whose cases would ordinarily have been done and dusted by now are still awaiting their day in court. That is because for the first three months or so of lockdown, the courts were effectively shut except for cases where people had been arrested and held in custody.

The courts are now back

open, with strict social distancing measures in place and limits on the number of cases dealt with each day. That has seen the court capacity drastically reduced.

By June of this year, some estimates put the number of cases waiting to be dealt with at Magistrates' Courts at almost half a million. Getting rid of this backlog while coping with new cases is going to take the courts some considerable time.

At McCormicks, as with other firms, we have

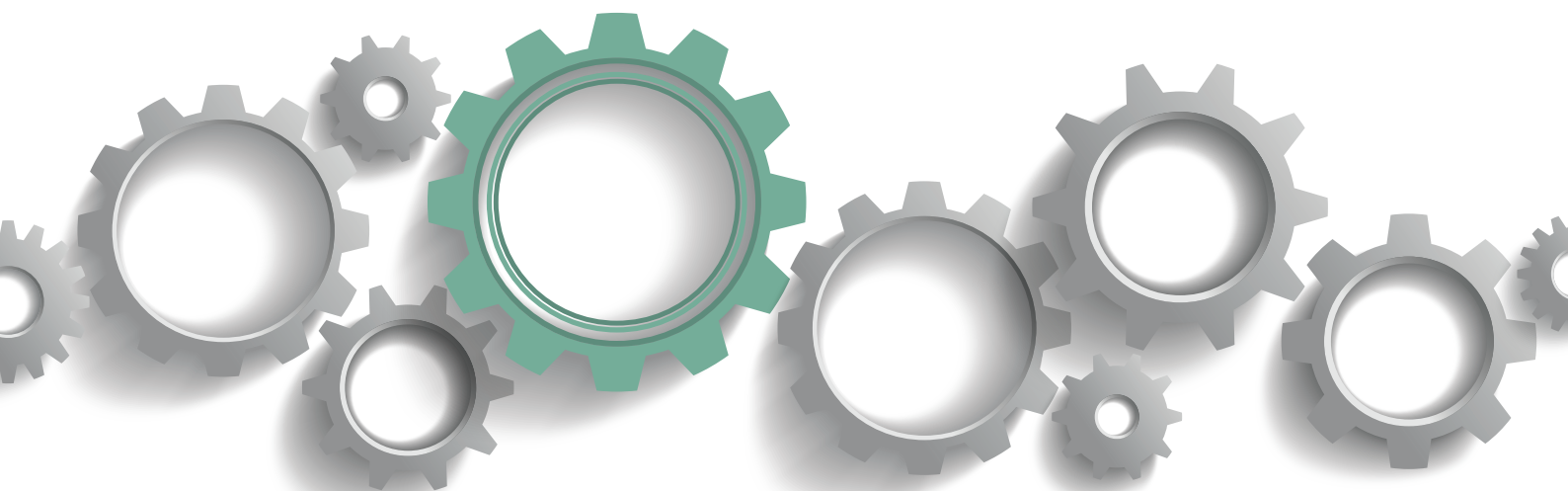
scores of clients still waiting for the court to give them a date for their first hearing.

To pick one at random, we have a client who faces a potential driving ban for allegedly breaking the speed limit back in July 2019 and who still has not had their case heard more than 12 months later. The original court date was cancelled due to lockdown.

Such delays, coupled with COVID-19 concerns, place extra stress on clients who very often

just want matters sorted so they can move on with life.

Now more than ever, therefore, it is essential to have a good solicitor to steer you through the court system and help you deal with the stresses involved. Someone to ensure that when your case is finally listed by the courts, sometimes at short notice, everything that can be done has been done to get the best possible outcome. You can rely on McCormicks to do just that.



Brian Nuttney is a Solicitor Associate specialising in all aspects of Crime.

He appears regularly in the Magistrates' Courts and police stations across North Yorkshire and further afield, representing clients across a wide range of criminal and motoring offences.

He is a qualified police station representative and holds Duty

Solicitor status.

He also has substantial experience preparing cases for the Crown Court, advising clients and instructing Counsel in a wide range of matters including serious sexual offences, historic sex offences, violence, drugs and fraud.

Brian has successfully represented clients charged with offences such as rape, robbery, fraud and theft.

His approach includes a thorough analysis of the prosecution case, a strong understanding of case law, detailed preparation, and the effective use of expert

witnesses to find evidence that supports his client's defence.

Brian qualified as a solicitor in February 2018.

Prior to his career in law, Brian was a successful journalist and worked as deputy editor for a number of regional newspapers.



Brian Nuttney

A major overhaul of family courts and how they deal with victims of domestic abuse has been announced. Family Solicitor Carol Hancock explains what the changes mean.

Courts to protect domestic abuse victims

A major overhaul of family courts and how they deal with victims of domestic abuse has been announced. Family Solicitor Carol Hancock explains what the changes mean.

The changes announced by the Ministry of Justice on how the family courts deal with domestic abuse victims and their children are very long overdue and will give hope to some of those currently going through the system.

They will mean more victims will receive special protections in court, there will be stronger powers for judges to prevent abusers repeatedly

dragging a victim back to court, itself often a form of abuse, and a new investigative court process is to be trialled to reduce conflict.

The report, published in June, laid bare some of the long-standing failings of the system and highlighted the need for fundamental change to keep victims and their children safe. The report follows a review into how family courts handle domestic abuse which found that victims and children were being put at unnecessary risk.

There is a whole range of new measures, with more victims to receive special protections

in court and stronger powers for judges to prevent abusers repeatedly dragging a victim back to court, which can be a form of continued abuse. A new investigative court process will also be trialled in an attempt to reduce conflict.

Protections in court will include access to separate building entrances and waiting rooms, as well as protective screens to shield them from their alleged abuser in court.

The expert panel which carried out the review was made up of representatives from charities, the judiciary, family law practitioners



Solicitor Carol Hancock works with Stephen Hopwood in the Family Department on all family law matters, and she is one of the first points of contact in terms of client care. Carol has an excellent knowledge of all areas of Family Law, and in particular Children and Domestic Violence Issues.

Previously a teacher of secondary science, Carol returned to Hull

University to complete a law degree in 2008, shortly after her own divorce. Carol graduated from the University of Hull in 2011 with an upper second class honours degree in Law. She was awarded a place on the Law Society Bursary and Diversity Access Scheme in 2011, and went on to receive a commendation from the Legal Practice Course at the College of Law, York, in 2012. Carol

joined McCormicks in the summer of 2012, and began her Training Contract in December 2014. She completed this in May 2016.



Carol Hancock

and academia, and took the views of more than 1,200 individuals and organisations.

It found that an adversarial process in the family courts often worsened conflict between parents, which could retraumatise victims and their children.

Ministers will also launch a review into the presumption of

“parental involvement” that often encourages a child’s relationship with both parents, unless the involvement of that parent would put the child at risk. It will examine whether the right balance is being struck between the risk of harm to children and victims, and the right of the child to have a relationship with both parents.

We'll be back!

At this time of year we are normally flat out preparing for the Yorkshire Young Achievers Awards which, sadly, we have had to cancel this year. We will be back as soon as we can but, in the meantime, remind yourself of some of our previous winners.



Many of our friends and clients have met hammer thrower Jessica Mayho who is both a winner and a grant recipient from the Yorkshire Young Achievers Awards.

Jess does it again!

Jess has just successfully defended her British title at the Muller British Athletics Championships in Manchester with a seasons-best throw of 65.45m.

She said: "It was a really different experience as it was behind closed doors so unfortunately

Mum and Dad couldn't be there but they met me after at the stadium gates which was lovely!

"I'm really pleased to have come out and thrown my season's best after what has been a very odd six months, from managing a small injury, to trying to

train in my garden and changing my coach.

"It is now time to take a couple of weeks' downtime then back into winter training, feeling positive about the challenge ahead of trying to gain Olympic qualification next year."



Picture courtesy of British Athletics.

OUR EXPERTISE



McCormicks offers the full portfolio of legal services to all forms of organisation including businesses, charities and sporting bodies, together with private individuals. The firm offers expertise in all areas of corporate and commercial work whilst maintaining a commitment to the personal client in areas such as rural property, tax, trusts, probate, family matters and crime.

Charities & Community

- Charities
- Not For Profit

Corporate & Commercial

- Acquisitions and Disposals
- Banking and Finance
- Commercial Agreements
- Competition and EU Law
- Corporate Crime, Fraud and Risk
- IT and Data Protection

- Insolvency and Bankruptcy
- Intellectual Property
- Partnership and Company Law
- Regulatory and Disciplinary
- **Crime**
 - General Crime
 - Corporate Crime, Fraud and Risk
 - Dispute Resolution and Litigation
 - Commercial Disputes
 - Mediation and Arbitration
 - Partner/Shareholder Disputes
 - Property and Construction
 - Reputation Management

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Family & Matrimonial

- Children
- Matrimonial

Insolvency & Bankruptcy

Mediation & Arbitration

Property

- Agriculture and Estates
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- Development and Regeneration
- Residential Property
- **Sport, Media & Entertainment**
 - Employment
 - IT and Data Protection

- Insolvency and Bankruptcy
- Intellectual Property
- Media and Entertainment

- Mediation and Arbitration
- Regulatory and Disciplinary
- Reputation Management
- Sponsorship
- Sport

Tax, Trusts, Wills & Estates

- Agriculture & Estates
- Care of the Elderly
- Tax and Trusts Disputes
- Trust and Tax Planning
- Wills and Probate

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Philip Edmondson • Elaine Lightfoot • Heather Roberts • James Towler

