

There is no such thing as a quickie divorce... yet

When celebrity couples get divorced, the media will often refer to "quickie" procedures. This is misleading, as there is only one divorce procedure and preferential treatment is not offered on the basis of celebrity status.

Generally, obtaining a divorce is straightforward, without anyone attending a hearing personally, unless there is an unexpected problem or, rarely, if the procedures are defended. It is a two-stage process with a minimum delay of six weeks between the conditional and final divorce decrees.

The sole basis for divorce remains the irretrievable breakdown of the marriage, which must be shown by adultery, unreasonable behaviour or desertion by one spouse, or by reference to a separation period of two years with the consent of the other party, or five years' separation without needing to show consent.

Perhaps surprisingly, there is no requirement for the Court to approve financial arrangements before the final divorce decree. In some cases, finances are not resolved for years, which is undesirable and not recommended. The Court also no longer considers arrangements for children as part of divorce and parents are encouraged to agree matters concerning the care of their children.

The administrative aspects of divorce have moved from local County Courts, some of which are closing, to regional divorce centres. This has created backlogs through volume, adding further delay to the divorce process. Typically a straightforward divorce, ignoring financial aspects, will take a minimum of five to six months from lodging the completed papers to final decree, assuming no delay at any stage.

Arguably there should be no reason for much delay before the initial decree is granted. The President of the Family Division has suggested that divorce could become a purely administrative procedure, although this may ultimately be restricted to cases where both parties agree that the marriage is over, without the need to attach blame. Such divorce proceedings could be modified so that divorces become streamlined and quicker procedurally, perhaps online, and hopefully with a lower fee than the current £550.

There are also increasing calls for the law to be changed to introduce "no fault" divorce, avoiding the need to attach blame or require a separation of a minimum of two years.

Interestingly, a 6 month online divorce pilot scheme started at the end of January 2017 in one of the regional centres. It will involve slightly amended procedures and forms, but may prove to be the way forward to speed up divorce procedures, whether or not there is reform of the basis for divorce.

Taylor Walton Solicitors offer FREE Initial 30 minute consultations with our Family lawyers (in return you will be invited to make a £20 donation to charity). To make an appointment please call our St Albans office: 01727 845245 or Harpenden Office: 01582 765111



Michael Howard is a family solicitor at Taylor Walton and can assist with all aspects of family law including divorce and separation. Michael can be contacted on 01582 765111 or by email; michael.howard@taylorwalton.co.uk.

See you in the summer!

The team at Taylor Walton are looking forward to the summer season and getting stuck into some of our regular summer events.

We will be sponsoring and attending the following events and look forward to meeting lots of our clients and contacts in the coming weeks. Why not come along and take part in our Coconut Shy at the Harpenden Carnival and Highland Gathering!

Harpenden Carnival (Harpenden Common) - 10 June 2017

Spotlight on Africa Ball (Luton Hoo) - 30 June 2017

Highland Gathering (Rothamsted Park) - 9 July 2017

Sounds around the Abbey (St Albans Cathedral) - 24-29 July 2017

Proceeds from our Coconut Shy at the Harpenden Carnival will go to our long-standing charities Rennie Grove Hospice Care and Keech Hospice Care.

Funds from the Shy at the Highland Gathering will go directly to the Harpenden Lions Club charities.

The information given in this update was, at the time of publication, believed to be a correct statement of the law. However, readers should seek specific legal advice on matters arising, and no responsibility can be accepted for action taken solely in reliance upon such information.
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Aspire: helping owner and family managed businesses

Welcome to the Spring 2017 edition of the Aspire newsletter



As summer fast approaches, I am delighted to share with you some recent updates from across the firm, as well as what I hope will be useful guidance relating to recovering business debts, managing your staff handbooks and dispelling the myth of the 'quickie' divorce.

I hope you enjoy this edition of Aspire. If you have any questions, or suggestions for future topics for the newsletter, please do not hesitate to contact me, I would be delighted to hear from you.

Dermot Carey, Managing Partner of Taylor Walton

Santander and Capita plc: Double hit panel success

We are delighted to share the news that we have successfully been reappointed to the Santander Corporate and Commercial Banking Panel and the Capita Legal Panel following a formal review.

The firm was first appointed to the Santander panel in 2013 and we are delighted to be celebrating our five year anniversary with this high profile and well respected client. "As a firm we are very pleased to once more have been appointed to the corporate and commercial panel for Santander," commented Clive Borthwick, Partner. "We have always been immensely proud of our ability to retain clients and develop long term working relationships and it is great to see our relationship with Santander continuing this theme."

Andrew Winfield, Legal Manager, Santander Corporate & Commercial Banking Legal added "I know that my colleagues in Santander Corporate and Commercial Banking are keen to

continue working with our panel firms, including Taylor Walton in order to develop the relationship further and to support them in delivering a high value and leading edge proposition in this expanding market place."

Professional services giant Capita also finalised its commercial legal panel in April 2017 with 21 firms being successfully appointed to the roster.

We are delighted to be providing property advice as part of the panel which also includes firms such as Eversheds, Addleshaw Goddard and DWF.

Partner and Head of Commercial Real Estate Angela Thomas commented, "We are thrilled to have retained our position on the Capita panel, reflecting our passion and commitment to delivering an excellent service to this national client."



SEMINAR PROGRAMME 2017:

Protecting your business from debts: Who to sue - perfecting the process

23 May 2017

The banks of mum, dad, grandma and grandad

19 September 2017

Book online at taylorwalton.com now

Who to Sue: Perfecting the process

Dealing with debts is part and parcel of any business operation. It is therefore essential that we know who our customer is - otherwise the debt recovery process is made unnecessarily complicated, before it even commences.

When a business acquires a new customer, the first step that should be undertaken is to identify precisely who that customer is. This may appear obvious, yet so often the debt recovery process is delayed by the need to establish who the customer actually is.

Know your client

Most businesses will have an established procedure for dealing with what is commonly referred to as Know Your Client ('KYC') information. This is important for a number of reasons, not least in knowing who to sue if things go wrong. All too often, businesses will attempt to pursue an unpaid/late invoice only to face a defence of "it wasn't me" before even dealing with any substantive dispute relating to why the invoice has not been paid.

In order to avoid any potential confusion, businesses must ensure that they perfect the process in respect of gathering KYC information from the outset of a trading relationship.

As a business, if you offer credit limits to your customers, it is not uncommon to get the customer to complete a credit application form or sign a contract. This will contain a number of questions that should accurately identify your customer e.g. there will often be a section that requests the customer to set out an individual's or business name.

In assessing the viability of a business and indeed making an informed decision as to whether you want them as a customer, this basic information gathering exercise is an absolute must.

What types of client exist?

In order to appreciate the importance of KYC information, it is imperative that we understand the different types of legal entity that exist and the legal implications associated with such.

In basic terms, there are three types of customer to consider:-

- A sole trader - who is liable in his/her personal capacity for the debts of the business;
- A partnership - who has two or more individuals and thereby jointly liable for debts;
- A company - who is a legal personality in its own right and is liable for the debts of the business, not necessarily the Directors (absent a personal guarantee).

Depending on which type of customer approaches you, there are varying issues and accompanying evidence that should be considered. For example, just because a customer states they are trading as a company, it should never be taken at face value. Also, even if that company exists on paper - do you know if it is an "active" or "dormant" company? It is better to know the answer to this question from the outset, than to find out when you are owed several thousand pounds.

Who owes the money?

A key issue to remember is that a business trading name is not necessarily indicative of who owns that business - further investigation is required. For example, a customer may state that his business name is "ABC Painting". However, this could translate as:

- Mr John Smith trading as ABC Painting
- Mr John Smith & Mrs Jane Smith trading as ABC Painting
- ABC Painting Limited trading as ABC Painting

If you fail to identify the correct legal entity then you run the risk of being unable to recover your unpaid invoices since you cannot simply sue "ABC Painting" in court proceedings.

So, what type of information should you be obtaining from a prospective customer? A sole trader is often an unknown quantity in terms of creditworthiness whereas a company is, in theory, more transparent, due to publicly available information on Companies House. As a bare minimum, you should ascertain their full name and current address, how long they have been trading and whether they have any trade references.

If you do not know who your customer is, then how can you subsequently sue them to recover monies owed? Obtaining a judgment is only half the battle; actually recovering the money under that judgment is winning the war. If you obtain a judgment against a legal entity that does not exist, then enforcement will prove to be a futile exercise. Indeed, it could be viewed as throwing good money after bad since you will struggle to enforce a judgment against a company that is technically insolvent or worse still, a company that does not exist.

Balancing risk and commerciality

It goes without saying that as a business you do not want to turn customers away. There is a fine balance between assuming risk and turning away potentially lucrative new business. Every customer is a new opportunity and a commercial decision must be reached as part of an overall risk assessment.

Risk assessment is an on-going exercise for a business. It must never be assumed that where due diligence was undertaken at the outset that it should not be re-assessed if, for example, an order outside the norm is received from a long standing customer. Businesses should be alert to out-of-the-ordinary changes to usual trading patterns of orders for goods or services.

The key lesson is to remember that if appropriate identification checks are not undertaken at the outset and kept under review, you are exposing your business to losing money without the prospect of ever recovering it.



Saljuq Haider, Solicitor in the Commercial Litigation and Dispute Resolution Department at Taylor Walton LLP, will be running a seminar dedicated to helping businesses manage debt effectively on 23 May 4-6pm at Beales Hotel, Hatfield. For further information, or to register please visit www.taylorwalton.com/events or contact us on 01582 731161.



FREE EMPLOYMENT LAW WORKSHOPS 2017:

Exploring Handbooks and Policies

The contents of the 'perfect' employment handbook and the policies businesses should implement to best protect their business.

6 June 2017 : Luton
13 June 2017: St Albans
22 June 2017: Luton
29 June 2017: St Albans

Effectively managing your staff handbook and policies

Policies set out in a Staff Handbook form part of the essential tool kit for HR managers to:

- **set out standards of behaviour expected by the business of its employees and workers;**
- **assist it in the running of the business;**
- **reduce legal risks; and**
- **enable the business to comply with good HR practice.**

We are holding workshops for HR Managers to look at this important area. At the workshops we will explore the contents of the 'perfect' staff handbook and policies businesses should implement to best protect their business.

Whilst it is the case that there are very few legal requirements on employers to have written policies, except for disciplinary and grievance procedures, information about pensions, health and safety (if 5 or more employees) and in some cases whistle blowing, there are strong legal reasons for including certain policies. It is highly recommended that a business has an appropriate policy covering areas such as whistleblowing, bribery, equal opportunities, data protection, discrimination, harassment and the use of social media.

Over the past few years I and my team have seen an increased number of instances where businesses have grappled with problems in the workplace arising from the use of social media by employees. We have seen problems ranging from bullying and harassment to publication of sensitive/confidential data and damage caused to the reputation of the business. The benefit of a good social media policy should not be underestimated. The policy should set out the standard of behaviour expected from employees when using social media and enable the business to take disciplinary action where appropriate.

It is also important to understand how certain policies work with each other. For example the relationship between a social media policy and other associated policies such as a data protection policy to best protect the business.

We will also look at:-

- the thorny issue of distinguishing between contractual and non-contractual terms;
- the risks to the business that certain non-contractual policies may become contractual as a result of custom and practice.

Policies in the Staff Handbook need to be refreshed and updated on a regular basis to ensure they are appropriate to the needs of the business. As we only accept a small number of attendees at our workshops you will have an opportunity to raise areas of concern about your policies with an experienced employment partner from Taylor Walton.

Our workshops on this topic will take place throughout June. To book your place register online at www.taylorwalton.com or contact the events team by telephone on 01582 731161 or by email events@taylorwalton.co.uk.



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