

Legal Insight

In this issue:

SRA Confirms Fining Power Increase to £25,000

Reshaping Legal Services

Utilisation of Legal Data

What is the Transfer of a Business as a Going Concern for VAT Purposes?

Dive in with Caution... Partnership Income or Employment Income

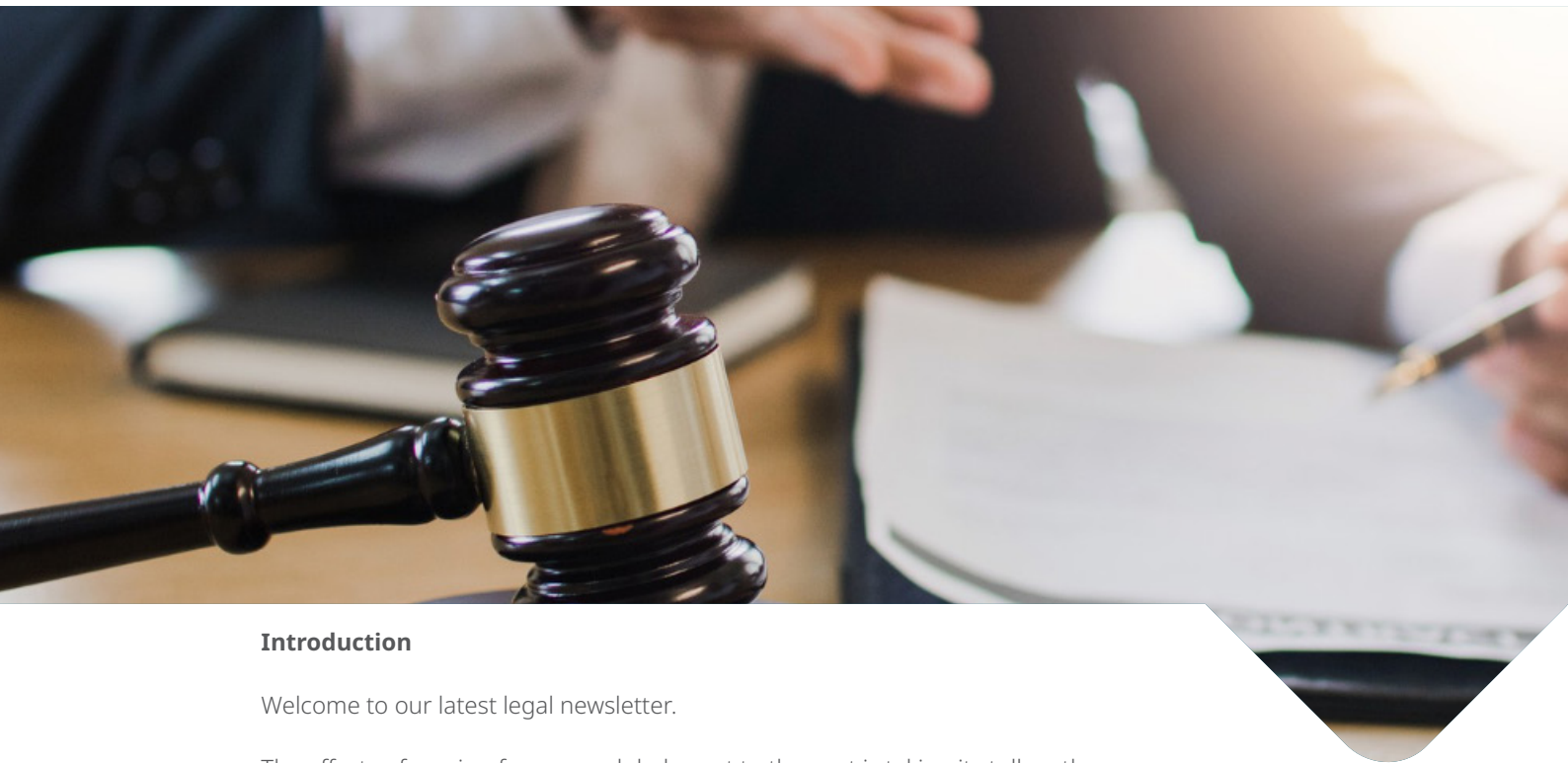


Hawsons

Big firm expertise,
small firm personal attention



Simon Bladen Partner



Introduction

Welcome to our latest legal newsletter.

The effects of moving from one global event to the next is taking its toll on the economy as inflation soars and economic uncertainty continues. Due to conflict in Ukraine the global pandemic has taken a back seat in terms of the immediate concerns to the economy.

In this version of our newsletter we discuss the following:

- SRA Confirms Fining Power Increase to £25,000
- Reshaping Legal Services
- Utilisation of Legal Data
- What is the Transfer of a Business as a Going Concern for VAT purposes?
- Dive in with Caution... Partnership Income or Employment Income

As always we hope you enjoy the content of this newsletter and please do get in touch if you would like any more information on any of these articles.

Simon Bladen



WE ARE AN INDEPENDENT MEMBER OF
THE GLOBAL ADVISORY
AND ACCOUNTING NETWORK

A member of HLB UK Ltd., which is a member of HLB International. A world-wide network of independent professional accounting firms and business advisers, each of which is a separate and independent legal entity and as such has no liability for the acts and omissions of any other member. HLB International Limited is an English company limited by guarantee which co-ordinates the international activities of the HLB International network but does not provide, supervise or manage professional services to clients. Accordingly, HLB International Limited has no liability for the acts and omissions of any member of the HLB International network, and vice versa.



SRA Confirms Fining Power Increase to £25,000

Towards the end of 2021 the SRA announced that they were proposing an increase in fining powers from £2,000 to £25,000. In addition, the regulator announced the development of a new fast track system for 'fixed penalties' for low-level offenses. It was recently announced that these proposed changes will go ahead. Upon confirmation of the increasing fining powers the SRA said that cases with fines below £25,000 are usually matters which are straightforward to investigate and do not merit the time of the Solicitors Disciplinary Tribunal.

The regulator conducted a consultation on the proposed changes and 39 formal responses were received. Furthermore, the consultation engaged with 7,500 people via focus groups, surveys, polls and emails, etc. From this consultation the regulator claims that the majority of respondents were 'broadly in favour of the principles'. However, some respondents had differing opinions on how the proposals should be implemented.

What effects will the changes have on the legal sector?

This increase in fining power should mean that the number of cases given to the Solicitors Disciplinary Tribunal will decrease. This will enable the Solicitors Disciplinary Tribunal to focus on more serious breaches of the rules.

For the first time ever, the SRA will be taking the firm's turnover and the individual's finances into account when applying fines. The aim of this is to ensure that largest firms are punished more severely for breaking the rules.

Further amendments to the rules say that any cases where sexual misconduct, discrimination or harassment are involved must result in suspension or a strike-off instead of a fine unless there are exceptional circumstances.

Independent adjudicators that have not been involved with the investigation will be imposing the fines. The SRA have said that this new approach will be monitored and they will analyse the impact on particular groups including older solicitors, men, and minority ethnic backgrounds. These three groups are all over-represented in the enforcement process.

Currently, the SRA is in a consultation to discuss how they will publish decision notices and what information it shares. Once the increased fining powers are introduced this will be highly significant as the Solicitors Disciplinary Tribunal normally presents additional details when their judgments are published.

Looking forward

Towards the end of 2022 another consultation will be held to discuss how the fixed-penalty regime will be implemented and which breaches it should cover.



Keep up to date
with our latest news and updates





Reshaping Legal Services

The LSB (Legal Services Board) has developed a new website called reshapinglegalservices.org.uk. The new website aims to present research and insight about the future of legal services from lawyers, regulators, tech experts and consumers.

The idea behind the website is to demonstrate the progress made by organisations and people operating in legal services that are implementing the LSB's 10-year sector-wide strategy. This strategy has been divided into nine challenges. If you would like to find out more about the nine challenges please visit the [reshaping legal services website](https://reshapinglegalservices.org.uk).

There is already some promising content on the website including articles from Lawtech UK on how data can benefit legal services, and thoughts from Kingsley Napley championing diversity in the profession.

Over time, the aim is to reflect the importance of collaboration in reshaping the legal services sector to drive better services, fairer outcomes and stronger confidence.



What is the Transfer of a Business as a Going Concern for VAT purposes?

What is the transfer of a business as a going concern for VAT purposes? Be Aware, Getting it Wrong Can be Costly!!

The transfer of a business as a going concern for VAT usually involves high ticket items. To get the VAT liability wrong can lead to severe penalties/interest and it is in a company's best interest to get these transactions right first time, rather than trying to unravel a situation post transaction. It is always worthwhile checking with your Hawsons VAT contact before the transaction takes place.

Normally the sale of the assets of a VAT registered or VAT registrable business will be subject to VAT at the appropriate rate. A transfer of a business as a going concern (TOGC) however is the sale of a business including assets which must be treated as a matter of law, as 'neither a supply of goods nor a supply of services' by virtue of meeting certain conditions.

Where the sale meets the conditions the supply is outside the scope of VAT and therefore VAT is not chargeable.

Full article available on our website: <https://www.hawsons.co.uk/what-is-the-transfer-of-a-business-as-a-going-concern-for-vat-purposes/>



Dive with Caution Partnership Income or Employment Income

In *Corrigall* [2022], The First-tier Tribunal (FTT) found that earnings from diving could not be treated as income from a partnership.

The appellant in this case was employed as a gas and air diver for UK and international companies. The appellant, however treated his UK employment income as trading income of a partnership split between himself and the other partner, being his spouse.

Therefore, he only reported 50% of this income on his tax returns. This led HMRC to opening an enquiry into the submitted tax returns and subsequently giving notices to the conclusion that all UK employment should be treated as 100% income of the appellant and not partnership income.

The appellant's argument against this was that ITTOIA 2005, section 15 reclassifies employment income of a diver as trade income and that on this basis the income of such a trade should be taxed on the owners of the trade being him and his wife.

The appellant argued that because HMRC had allowed for expenses such as spouses wages against the diving income that this meant the appellant was trading with a view to a profit with his wife in relation to all of the diving income. Furthermore, because a partnership tax return and accounts were filed with HMRC, he argued that the existence of a partnership had been established.

Nonetheless, the FTT concluded that there had to be evidence that the partners were indeed trading with the view to make a profit and as such the partnership returns and accounts were not sufficient evidence.

Further, upon reading ITTOIA 2005 section 15, it refers to a trade of the employee only, the language used does not extend the meaning to include a trade owned by another person, in this case as partnership income.

The FTT found that the appellant was the sole employee and thus his tax returns needed to reflect 100% of the income from diving which would be taxed as trading income under S15 ITTOIA 2005.

In similar cases such as *Puttnam* [2019], the FTT came to the same conclusion. The application of ITTOIA 2005, section 15 merely describes the manner in which employment income is taxed and does not change the legal characteristics. Therefore, trading income carried out solely by one diver cannot be regarded as partnership income.

Therefore, please check with your tax advisor before you take that dive.

Utilisation of Legal Data

What is Legal Data?

Legal data is information classified as regarding law and is generated from multiple formats including time recording, knowledge banks, spreadsheets, legal documents, billing systems and more. This data is used in all areas of practice law. It is believed that the data represents a £3billion market opportunity in productivity gains alone for the legal sector.

Previous studies have shown:

- 20% of lawyers believe their organisation captures data effectively.
- 80% of General Counsels are not confident in their departments' ability to identify and manage legal risk.

What is the Legal Data Vision?

LawtechUK have recently launched a project called The Legal Data Vision which is supported by the Open Data Institute. The Legal Data Vision has been created to try and take full advantage of the opportunities that data can provide in vital areas such as decision-making, innovation, value generation, risk mitigation, and efficiency. The aim of the Legal Data Vision is to prioritise the responsible use and access of legal data to benefit the legal sector as a whole. However, the full potential of this project cannot be unlocked unless there is a unified effort across the legal data ecosystem. A unified effort into the Legal Data Vision will result in a greater innovation and a more sustainable legal sector that will elevate public trust.

Continued Overleaf...

Utilisation of Legal Data (Continued)

Why should my firm get involved with the Legal Data Vision?

Traditional legal data collecting methods used in the recent past are no longer considered an effective method of working in the 21st century. The amount of data now available is constantly growing and legal firms are currently operating within constraints of increasing complexity, oversight, uncertainty and scrutiny. Many professionals operating in the legal sector have now recognised the importance of legal data to better meet their client's needs and support innovation.

Implementing and having shared access to legal data can improve efficiency, productivity, and transparency. Data-led innovation can also help identify new business models, revenue lines and assist with addressing unmet and excluded legal needs. A legal data ecosystem which is strong and trustworthy with widespread access can be pivotal in helping legal firms make better decisions.

If professionals within the sector want to unlock the full value of data, then a unified commitment will be needed to treat data as an asset to increase capture rates. It is important to note that the overall goal is not for firms or professionals to exploit data. Instead, it should be seen as a valuable resource that will drive innovation and help deliver positive outcomes for legal services. If legal professionals commit and adhere to responsible data sharing, then this should benefit the productivity of the sector as a whole.

How can my firm get involved with the Legal Data Vision?

Within the Legal Data Vision is a framework that outlines how individuals operating within the legal sector can contribute in their own way to help achieve this vision.

Get in touch



Our experts

Hawsons is one of the few accountancy practices with a dedicated team of solicitor accountants specialising in the needs of solicitors and legal professionals.

We act for a large number of law firms across all three of our offices and offer a wide range of services which are tailored to meet their individual needs. Our legal client base consists of a multitude of firms of varying structure and size, from sole traders to limited companies and LLPs with corporate members.

Our understanding of the unique issues that many in the sector are facing, combined with our technical experience, allows our solicitor specialists to provide you with proactive, commercial and informed accountancy and tax advice.



Simon Bladen
Partner
0114 266 7141
slb@hawsons.co.uk

Sheffield Office
Pegasus House
463A Glossop Road
Sheffield, S10 2QD



Richard Burkimsher
Partner
01604 645600
richardburkimsher@hawsons.co.uk

Northampton Office
Jubilee House
32 Duncan Close, Moulton Park
Northampton, NN3 6WL



Dan Wood
Partner
01302 367 262
dw@hawsons.co.uk

Doncaster Office
5 Sidings Court
White Rose Way
Doncaster, DN4 5NU



HLB UK is a member of HLB International. A world-wide network of independent accounting firms and business advisers.



Sheffield: Pegasus House | 463a Glossop Road | S10 2QD

Doncaster: 5 Sidings Court | White Rose Way | DN4 5NU

Northampton: Jubilee House | 32 Duncan Close | Moulton Park | NN3 6WL

www.hawsons.co.uk