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Legal Newsletter

In this issue:

SRA Increase Spending on Disciplinary Processes

Ministry of Justice set for Legal Challenge over Fixed Recoverable Costs Plan

Law Firm Fraud – Do you know the Source of your Clients Funds?

Easing of Tax Rules for Divorcing Couples Confirmed

Proposed Changes to EPC Rules for Landlords in 2028

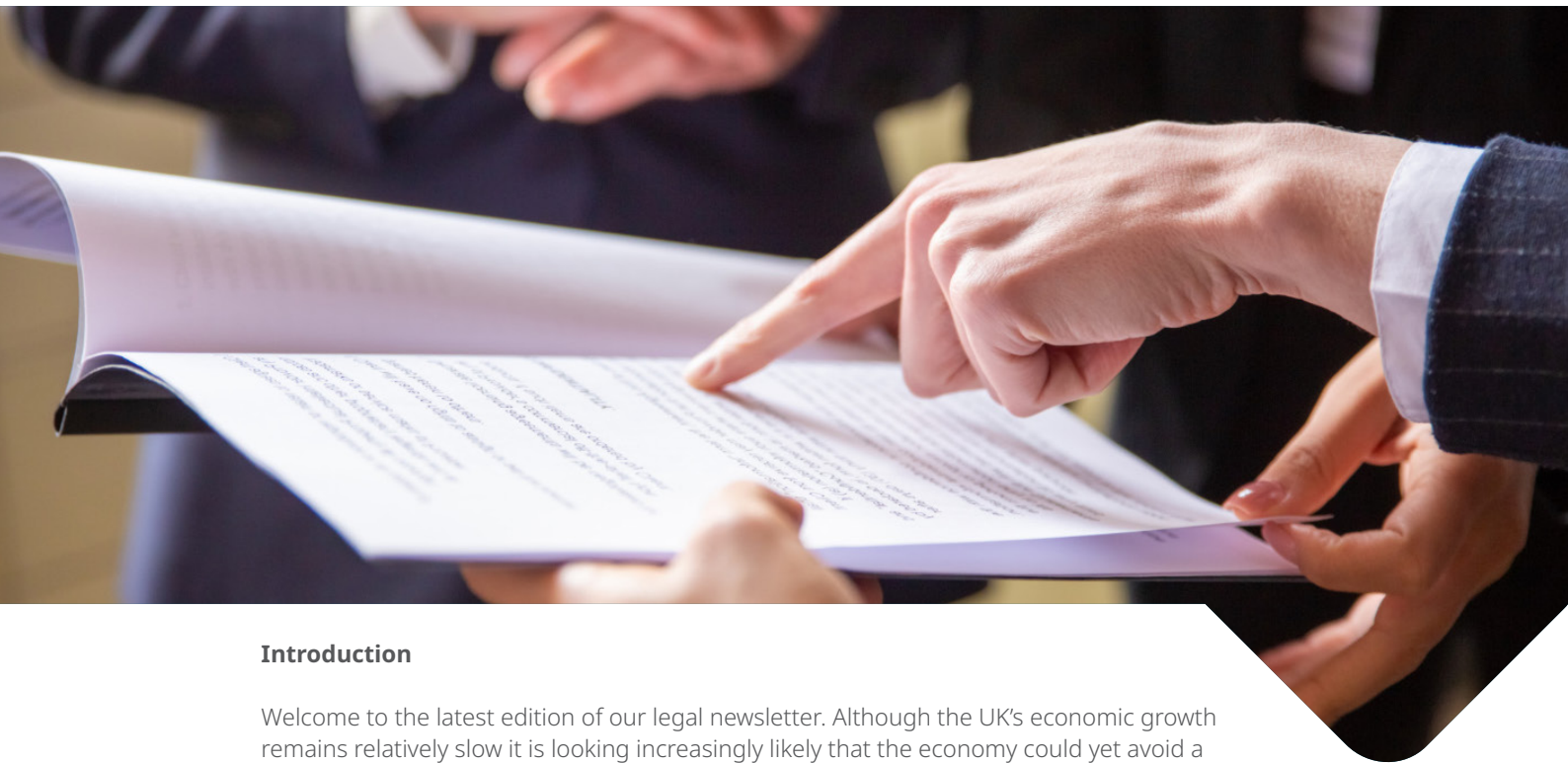


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Simon Bladen Partner



Introduction

Welcome to the latest edition of our legal newsletter. Although the UK's economic growth remains relatively slow it is looking increasingly likely that the economy could yet avoid a recession later in the year. The Bank of England has persisted with interest rate hikes in a bid to bring inflation down but there remains considerable economic uncertainty for businesses and individuals alike. In this issue we cover the following topics:

- SRA Increase Spending on Disciplinary Processes
- Ministry of Justice set for Legal Challenge over Fixed Recoverable Costs Plan
- Law Firm Fraud – Do you Know the Source of your Clients Funds?
- Easing of Tax Rules for Divorcing Couples Confirmed
- Proposed Changes to EPC Rules for Landlords in 2028

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

Simon Bladen
Partner



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Law Firm Fraud – Do you Know the Source of your Clients Funds?

In the digital age, fraud is showing no sign of slowing and is becoming an ever-present threat across all industries and sectors, in particular law firms that handle highly sensitive information on a daily basis. During these times, cybercriminal activity is becoming more sophisticated, the importance of having policies and procedures in place to mitigate fraud cannot be underestimated. Law firms are obligated to have appropriate Anti Money Laundering policies in place to protect client interests and maintain the integrity of the legal profession.

In this article, we explore some of the safeguarding measures that law firms can take to try and mitigate fraud.

Verifying funds

When conducting conveyancing transactions, law firms are required to complete a source of funds check. However, just checking the source of funds will not provide a clear image of the financial situation. Digitising this process by adopting a digital solution will enable access to a wider source of funds to analyse the client's financial history. This will make it easier to gather evidence and identify risks.

Using technology

Law firm employees should be adequately trained in identifying AML risks that may suggest financial fraud.

However, technology can be implemented to help reduce the risk of human error and identify risks earlier in the process.

Make the process easier

Adopting Open Banking technology provides a secure solution to identifying an accurate source of financial information. This is changing the way that law firms and other institutions are gathering data as Open Banking obtains real-time insight into a client's account, saving hours of admin time gathering bank statements and PDFs.

Due diligence

Finally, it is important that law firms complete thorough client due diligence. Fraudsters can use a variety of sophisticated techniques so it is very important that law firms conduct the following due diligence.

Continued overleaf



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Law Firm Fraud – Do you Know the Source of Your Clients Funds? (Continued)

Verify client identities

Obtain and verify official identification documents to confirm client identity.

Research background information

Conduct background checks on clients and related parties, particularly for high-value or high-risk transactions. This can include checking public records, verifying business registrations, and reviewing financial histories.

Engage face-to-face meetings

Whenever possible, meet clients in person to establish a personal connection and better assess their credibility. This can help identify any initial red flags or inconsistencies.

Conclusion

To conclude, the battle to mitigate against fraud in the digital age is still very much ongoing. Using appropriate technology, adequately training staff and conducting thorough due diligence are just some of the ways to mitigate against fraud. It is important that law firms have appropriate, effective safeguards in place to protect their clients and maintain integrity.



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Ministry of Justice set for Legal Challenge over Fixed Recoverable Costs Plan

The Ministry of Justice is set to expand the fixed recoverable costs regime on 1st October. However, the expansion of the regime has prompted the Bar Council to challenge the Ministry of Justice over the regime who are currently preparing a letter of legal challenge.

What is the expansion of the regime?

The expansion will establish an 'intermediate track' which will cover cases above the £25,000 fast-track threshold up to £100,000.

Why are the Bar Council challenging this?

The Bar Council have said that this reform has brought attention on to the Ministry of Justice who need to address other issues within the current regime. The fixed recoverable advocacy fee has not increased since 2007 and does not reflect the increase for inflation in the last 15 years. The Bar Council have stressed that the level of fees recoverable should reflect inflation at that point in time. According to the Bank of England's Inflation Calculator £1 in 2007 is worth £1.61 in June 2023, a significant increase. However, according to the Bar Council, the Ministry of Justice did not raise any of the issues regarding the new regime for raising fixed advocacy fees in line with inflation in their recent consultation.

What's next?

Once the Bar Council have submitted their letter of legal challenge it will depend on how the Ministry of Justice respond as to what happens next.



Easing of Tax Rules for Divorcing Couples Confirmed

New legislation easing the tax rules for divorcing couples has received Royal Assent. This confirms announcements made by the Chancellor in the Spring Budget 2023. The changes apply in relation to disposals of assets made on or after 6 April 2023.

What were the previous tax rules regarding divorce?

Married couples and civil partners can transfer assets such as property, shares or business interests between them without incurring capital gains tax (on a 'no gain, no loss' basis). However, under the previous rules, when a couple separated they could typically only benefit from this treatment until the end of the tax year in which the separation occurs. For example, a couple that divorced in March 2022 could only transfer assets without incurring tax up to 5 April 2022. If a transfer was made after the tax year of separation, this could result in unwelcome capital gains tax charges.

What are the capital gains tax changes?

The changes announced allow divorcing couples longer to arrange their affairs. From 6 April 2023, couples have up to three years after the year they cease to live together to transfer assets on a no gain, no loss basis. If the transfer is made as part of a formal divorce agreement, the couple have potentially an unlimited period to benefit from this treatment.

The changes will also benefit a spouse or civil partner

who has moved out of the property before it is sold, or transferred to the remaining spouse. The spouse who retains an interest in the former matrimonial home will be given an option to claim Private Residence Relief when it is sold.

Individuals who have transferred their interest in the former matrimonial home to their ex-spouse or civil partner and are entitled to receive a percentage of the proceeds when the home is eventually sold will be able to apply the same tax treatment to those proceeds when received that applied when they transferred their original interest in the house to their ex-spouse or civil partner.

Will these changes benefit couples who have not been married or entered a civil partnership?

These changes will only help couples divorcing following the breakdown of a marriage or civil partnership. Couples who have not been married or entered a civil partnership do not have access to the no gain no loss treatment.

Craig Walker, Tax Director at Hawsons, commented "The proposed changes are welcome and sensible. They will provide many divorcing couples with an extended time period to transfer assets such as their home without triggering tax. It can take time to agree a split of assets and this relaxation will reduce the time pressure for couples"

SRA Increase Spending on Disciplinary Processes

The Solicitors Regulation Authority (SRA) regulates solicitors in England and Wales. According to its latest annual report the SRA spent £16.5m on disciplinary processes in 2021/22, a £1.5m increase from 2019/20 (pre-covid). It should be noted that the SRA financial year runs from November to October.

What has the SRA increased spending on?

Increasing resources

The regulator reported that the majority of this increase in spend is because they have added more capacity to their investigation and supervision team resulting in a 10% spending increase from 2019/20 to 2021/22. The 2020/21 financial year was an outlier due to the pandemic and saw an unusually lower spend of £14.5m.

Other areas of spending

The SRA have said one area that has been given particular focus is the enforcement processes and how to conclude cases more efficiently.

The regulator has also been working on claims involving solicitor and firm conduct relating to bulk compensation claims. Of these, many relate to faulty cavity wall insulation, car finance claims and packaged bank account claims.



Landlords Advised to Review Tax Affairs Ahead of New Database

Renters Reform Bill

As part of the new Renters Reform Bill the Government is planning to launch a new landlord database. This database has the potential to provide HMRC with large amounts of information regarding landlords which they will be able to identify landlords who have not properly declared rental income and gains.

When the new private rented sector database is introduced, landlords that want to rent out properties in the private sector will be required to register to the database. Although HMRC have not said they will use this data for compliance activities it is assumed that they will considering the database will be publicly accessible. Furthermore, they will be able to combine this data from the private rented sector database with data they already have. This will shine the light even brighter on those landlords that do not currently comply with tax rules.

Landlords should check taxes are in order

With the new Renters Reform Bill on the horizon we would certainly recommend that landlords who have any concerns should review their tax affairs and take steps to bring them up to date. Declaring any mistakes and correcting your tax position voluntarily will result in lower penalties compared to being identified by HMRC. For those that wish to voluntarily correct mistakes they can do so via the Let Property Campaign.

If you are a landlord and are unsure regarding your tax position with HMRC we would certainly recommend reviewing your position. If you are unsure speak to our tax advisors who will be able to assist you to check your tax position and guide you through the process of correcting your tax position voluntarily.



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