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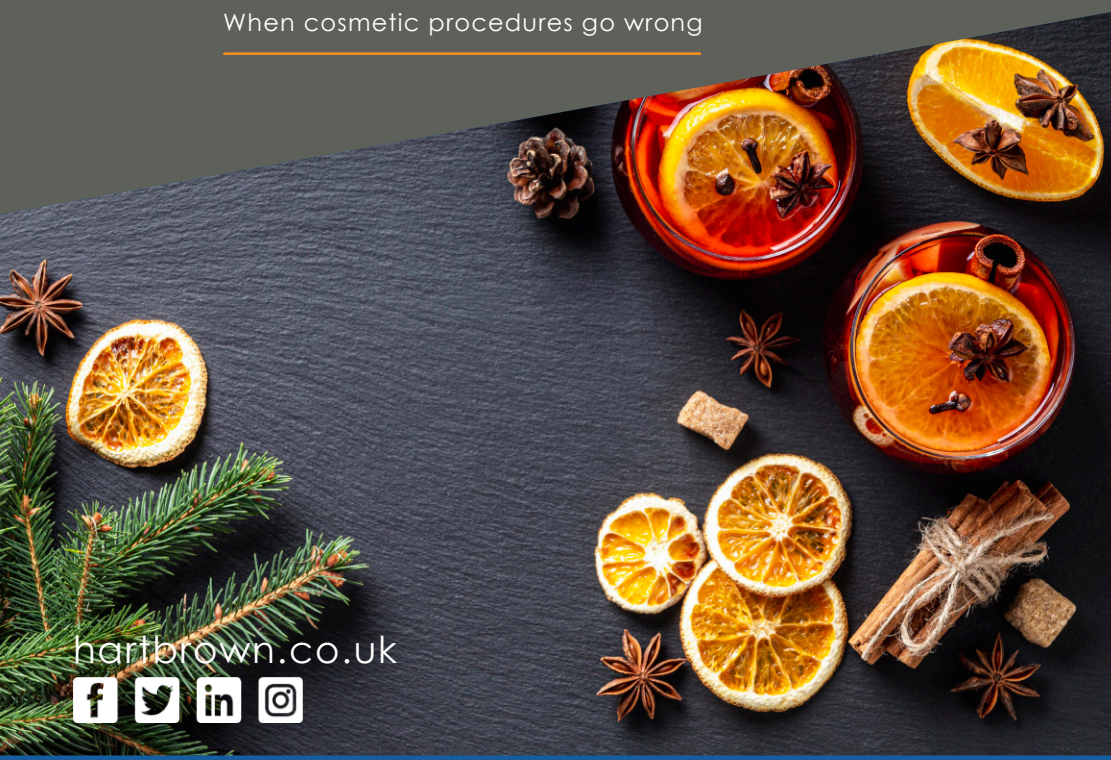
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What is contentious probate?

The benefits of having a pre-nuptial agreement

What to know when buying a new build property

When cosmetic procedures go wrong



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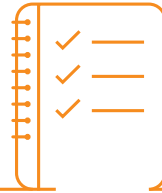


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WHAT IS CONTENTIOUS PROBATE?

Contentious probate refers to any disputes about an individual's estate when they are no longer here. This process can be difficult for families and lead to many mixed feelings, but understanding when an estate can be contested can help answer many questions, and make a troubling time less confusing for all.



Lucy Penfold
Associate, Dispute Resolution

This article will look at what contentious probate is and how a solicitor can help you do what is best for you and your loved ones.

What is contentious probate, and why do I need a solicitor?

Contentious probate in the UK refers to a legal dispute that arises when the validity of a will or the distribution of an estate is called into question. For example, this can happen when a family member or other interested party feels that they have not been fairly treated in the will, or they suspect that the will was made under duress or without proper legal formalities – both reasons that can invalidate the contents.

In such cases, a solicitor can play a crucial role in representing their client's interests and helping to resolve the dispute. This may involve advising on

the legal options available to the client, such as contesting the will, negotiating a settlement with other beneficiaries, or seeking a court order to protect their client's interests.

Contentious probate disputes

Contentious probate disputes can happen for a variety of reasons, including but not limited to:

- 'Further provisions' – this is common among spouses and children who feel they should have received more from the deceased's will, especially if they were financially dependent on them under legislation.
- Issues with executors of the will, such as a disagreement regarding the appointment or actions of one.
- Lifetime gifts and promises.
- Mistakes and disagreements, such as a dispute over the correct ownership of property or the value of an asset.

Contentious probate when there is no will

In the UK, when someone dies without leaving a valid will, it is known as intestacy. In such cases, the law sets out who should inherit the deceased person's assets. However, this can still lead to disputes between family members or others close to the



deceased, especially if significant assets are involved or questions about the deceased's wishes. These disputes are still considered to be contentious probate, and you should always contact a solicitor if you feel the will or the estate is not being correctly handled.

“In such cases, a solicitor can play a crucial role in representing their client's interests and helping to resolve the dispute.”

To discuss this, or any other related matter, please contact Lucy directly on **01483 887766**, email **info@hartbrown.co.uk** or start a live chat today.

PUBLIC RIGHT OF WAY CLAIMS. WHAT ARE THEY AND CAN THEY BE PREVENTED?

As a landowner, you may have heard of the term 'public right of way' and wondered what it means. A public right of way is an area of land that is open to the public for passage, such as a path or roadway. In some cases, this right of way may be established through legal means, which can be complicated and frustrating for property owners. In this article, I will discuss what public right-of-way claims are and how to prevent them.



Roderick Campbell
Partner, Head of Commercial
Property

What is a public right of way claim?

A public right of way claim is a legal process that allows the public to use a certain area of private land for passage. These claims can be made by government bodies or by individuals, and they are typically made when there is no existing public access to a particular area. Once a claim has been made, the landowner is required to allow public access to the claimed area.

How are public right of way claims made?

Public right of way claims can be established through various legal means, including:

Right of way after a lengthy time period

When someone uses a portion of private land for a specific period of time without the owner's permission, rights of way can occur. This is known as prescriptive easements. If this use is continuous and open, the user may be able to claim a right of way easement.

Voluntary

When a landowner voluntarily gives a portion of their land to the public for a specific use, such as a road or pavement, this is known as dedication. This dedication can be done through a written agreement or by simply allowing public use of the land for an extended period.

How to prevent public right of way claims

If you own land and want to prevent public right of way claims, there are several steps you can take. First, it is important to be aware of any existing rights of way or public access points on your property. This can be done

by reviewing your property survey or consulting with a real estate solicitor.

If there are no existing public access points on your property, you can take steps to prevent claims from being established. One way to do this is to clearly mark the boundaries of your property with fences, signs, or other barriers. This can prevent people from entering your land and claiming a right of way.

Protecting your property

Public right of way claims can be a complicated and frustrating process for landowners. By understanding how these claims are established and taking steps to prevent them, you can protect your property rights and avoid potential legal disputes. If you have questions about public right of way claims or other property issues, it is always best to consult with a property solicitor for guidance.



“This can prevent people from entering your land and claiming a right of way.”

To discuss this, or any other related matter with Roderick and his team, please call us on **01483 887766**, email **info@hartbrown.co.uk** or start a live chat today.

What our clients

"Very pleased with the friendly service and the outcome."



"Excellent legal service provided. Should the requirement emerge, I would have no hesitation using Hart Brown in the future."



"Our case was dealt with rapidly with deadlines being observed by the solicitor and his assistant."



"I was very impressed with the speed of service, the clear communication and the professionalism of all staff. Thank you."



say about us...

"Always helpful and on the ball. Visited me in my care home which was so kind and vital as I cannot walk at the moment."



"First class solicitors. Helpful, easy to communicate and deal with, answering all queries quickly and efficiently. In our minds very competitively priced and very good value. Recommend 100%."



"Over the past twenty years, Hart Brown has provided a good service in several areas where legal advice has been required. Without hesitation I would recommend them for sound advice and reliability in various legal departments."



"Exceptional. Grounded. No fuss. And importantly, worked with me."



THE BENEFITS OF HAVING A PRENUPTIAL AGREEMENT: WHY EVERY COUPLE SHOULD CONSIDER ONE

While a 'prenup' can be difficult to discuss with your partner, and may seem unromantic to factor into your wedding planning list, it's important to understand the benefits of having one and to discuss it openly and honestly. This article will explore the advantages of having a prenuptial agreement, who should consider one, and how to get one.



Sharon Powell
Partner, Head of Family

What is a prenuptial agreement?

A prenuptial agreement, or 'prenup' for short, is an important legal document that couples should consider when getting married. A prenup is an agreement between a couple that details how their assets and liabilities will be divided if they divorce or if one dies. It also outlines the rights and responsibilities of each party in the marriage.

Advantages of having a prenuptial agreement

A prenup does several things for a couple considering marriage. First, it

helps protect both parties' assets in case of a divorce or death. The prenup helps to ensure that the couple's assets are divided fairly.

Another benefit of having a prenup is that it can help to reduce the amount of stress and conflict that can arise during a divorce. By having a prenup in place, both parties know exactly what to expect if their marriage does not work out; this can help reduce the time and money the couple would have to spend in court and make a divorce smoother for all involved.

A prenup can help to protect a partner's assets, such as business interests, inheritances, and investments. This can be particularly beneficial if one partner has accumulated a significant amount of wealth before the marriage.

Are prenuptial agreements useful for everyone?

Traditionally, prenups were most commonly used amongst celebrities and the super-rich; however, there is a



benefit in having a prenup in place for all marriages to safeguard your future.

In fact, anyone getting married should consider having a prenup in place.

Additionally, anyone with children from a previous marriage should consider having a prenup. This is because the prenup can help protect the children's assets if the marriage does not work out.

How to get a prenuptial agreement

In the UK, there are no procedures in place to make a prenuptial agreement automatically legally binding. However, they are still relied on in court and divorce proceedings as long as the below criteria are met:

- Both parties have received legal advice and have their needs met by the agreement.
- The prenuptial agreement must be fair, contractually valid, understood by both parties and made at least 28 days before the wedding.
- Children should not be prejudiced.

How to discuss a prenup with your partner

Discussing a prenup with your partner can be a difficult and sensitive subject. It's important to approach the subject with an open mind and respect each other's opinions. Be honest with your partner about why you think a prenup is necessary. Explain that both parties have certain rights and responsibilities and that a prenup can help protect those in the event of a divorce or death.

Finally, it's important to be open to negotiation. Both parties should be willing to compromise in order to come to an agreement that is fair for both parties, and the agreement being fair is a condition for it to become legally binding.

To discuss this, or any other Family matter with Sharon directly, please call us on **01483 887766**, email **info@hartbrown.co.uk** or start a live chat today.

WHEN COSMETIC PROCEDURES GO WRONG – CAN YOU MAKE A CLAIM?

Cosmetic procedures have become increasingly common, but unfortunately, they do not always go to plan. If you have undergone a cosmetic procedure that has not gone as planned, we understand the devastating impact this may have on your life.



Gerard Sanders
Partner, Head of Personal Injury &
Clinical Negligence

A cosmetic procedure gone wrong such as lip fillers, botox, liposuction, breast augmentation, or dental surgery, can cause significant damage to your health, your confidence, and your wellbeing. However, you may be able to make a claim for compensation. This article looks at how to make a claim if a cosmetic procedure has gone wrong.

Cosmetic procedures gone wrong: first steps

If you have instructed a professional to carry out a cosmetic procedure, you are entitled to a certain level of care. If you believe the professional has done something wrong or acted negligently, you may be able to bring a claim. In the first instance, we would recommend trying to resolve this

with the organisation that carried out your procedure. The practitioner may recommend a further procedure to rectify what you are unhappy with, and they should have a formal complaints procedure. However, in some cases, patients are left with chronic pain or lifelong injuries, including scarring.

If you have suffered a significant injury due to a negligent cosmetic procedure, we would advise that you contact an experienced medical negligence or personal injury solicitor.

Informed consent

When you undergo any medical procedure, including rhinoplasty, breast augmentation, a gastric band operation or liposuction, the medical professional has a duty to obtain 'informed consent'. Informed consent means that they made you aware of all of the risks of the procedure, before it was carried out. If you were not aware of what could go wrong and you then suffered such complications, you may be able to bring a claim for lack of informed consent.



Making a claim for a cosmetic procedure gone wrong

There are various elements to making a successful claim for a cosmetic procedure that has gone wrong, which are set out below.

Time limit

There are strict time limits for bringing a claim. You must bring a claim within three years of the date of the procedure or within three years of realising that you had suffered an injury.

You must have suffered an injury

It is not enough that the practitioner acted negligently; you must have suffered an injury to claim compensation. An injury does include scarring, burns, or infection.

You must be able to prove the practitioner acted negligently

The practitioner must have failed to exercise the standard of care that could be reasonably expected of a person in their role. Whether or not a mistake was 'negligent' is often the key factor in cosmetic injury cases.

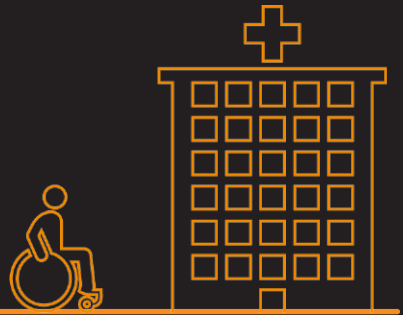
To discuss this, or any other Clinical Negligence matter with Gerard directly, please call us on **01483 887766**, email **info@hartbrown.co.uk** or start a live chat today.

Recognised for
yet another year
in the Legal 500
2024 edition



What is said about us?

CLINICAL NEGLIGENCE & PERSONAL INJURY:



"Hart Brown is well known for negotiating and litigating a range of clinical negligence cases, receiving praise for its 'great collaborative team with depth of knowledge'. Gerard Sanders leads the team, advising on claims involving orthopaedic injuries and general surgical claims, among others.... Hart Brown's personal injury team is headed up by Gerard Sanders, with a focus on litigating multi-track cases where clients have suffered complex spinal and head injuries as well as amputation. Road traffic accidents, employers liability cases, occupiers and public liability claims are traditionally strong areas of the team's work. Other key lawyers: Mark Wisby."

COMMERCIAL PROPERTY



“Operating across five offices in Surrey, Hart Brown’s commercial property department regularly assists SME businesses and private individuals with transactional, corporate and advisory matters including acquisitions of sites for development and investment purchases. Practice head Roderick Campbell is experienced in handling all aspects of non-contentious commercial property work for a broad range of clients, recently specialising in acting for large residents’ associations that manage freehold estates. With substantial experience in sales and purchases of properties, landlord and tenant matters and development agreements, Tamzin Mandelli ‘provides a high level of service’ and ‘is able to deliver what is needed’. Other key lawyers: John Guthrie.”



WHAT TO KNOW WHEN BUYING A NEW BUILD PROPERTY IN THE UK

Buying a new build property in the UK can be an exciting venture, offering modern designs, energy efficiency, and the opportunity to be the first owner.



Lawrence Stolworthy
Partner, Head of Residential Property

However, purchasing a new build comes with its own set of considerations and unique aspects that buyers should be aware of. From understanding warranties and contracts to navigating snagging issues and managing completion dates, being well-informed is crucial.

In this article, I will explore key factors to consider when buying a new build property in the UK.

Researching the developer

Before committing to a new build property, it is essential to research the developer and their track record. Look into their reputation, previous projects, and customer reviews. Establishing the developer's credibility and understanding their commitment to quality construction and customer satisfaction can provide reassurance about the reliability of the project.

Comprehensive inspection and snagging

While new build properties are expected to be in pristine condition, it is important to conduct a thorough inspection and snagging process before completion. Snagging refers to identifying and rectifying any defects, minor issues, or unfinished work in the property. Engaging a professional surveyor can help ensure that all necessary repairs and finishing touches are addressed before you take possession of the property.

Understanding warranties and guarantees

New build properties typically come with warranties and guarantees that provide protection against structural defects and substandard workmanship. The most common warranty in the UK is the NHBC Buildmark warranty, but other providers, such as Premier Guarantee and LABC Warranty, also offer similar coverages. Familiarise yourself with the details of the warranty, including its duration, coverage, and any additional guarantees provided by the developer.

Contract considerations

Reviewing the purchase contract thoroughly is crucial when buying a new build property. Pay close attention



to the payment schedule, completion dates, and any contingencies or conditions that need to be met before completion. Ensure that the contract includes provisions for potential delays, penalties, and dispute resolution mechanisms. Seeking legal advice from a property lawyer specialising in new build transactions can help clarify any uncertainties and protect your interests.

Completion dates and delays

Completion dates for new build properties can sometimes be subject to delays due to construction issues or external factors beyond the developer's control. Maintaining open communication with the developer and staying informed about the progress of the construction can help manage expectations and ensure a smooth transition to your new home.

Ongoing development and amenities

Consider the surrounding area and any ongoing development plans that may impact the property and its surroundings in the future. Research the local amenities, such as schools, transportation links, shops, and recreational facilities, to ensure they meet your requirements. Being aware

of any planned infrastructure projects or changes in the vicinity can help you make an informed decision about the long-term prospects of the area.

Everything you need to know

Buying a new build property in the UK offers many advantages, but it requires careful consideration and due diligence. Researching the developer, conducting comprehensive inspections, and understanding warranties and guarantees are crucial steps to ensure the property meets your expectations. Thoroughly reviewing the purchase contract, managing completion dates and potential delays, and staying informed about ongoing development in the area will contribute to a successful purchase. By being well-informed and seeking professional advice when needed, buyers can navigate the process of buying a new build property and embark on their homeownership journey with confidence.

To discuss this, or any other related matter with Lawrence directly, please call us on **01483 887766**, email **info@hartbrown.co.uk** or start a live chat today.

CLEAR LANGUAGE IS CRITICAL IN WILL DRAFTING

Three children have won a share of their father's £700,000 estate after a hard-fought case that reached the High Court in London.



Louise Harrihy
Head of Wills, Trusts & Estates

The siblings took action when their father, Kenneth Grizzle, died and they found they were excluded from his will. They told the court that he was illiterate and he could not have understood the will he had signed, but had always been too proud to tell others of the problem.

Sharing memories of their father struggling with reading, they claimed he must have disinherited them by mistake when leaving everything to his two children from a later relationship. The judge agreed, and all five half-siblings will now receive an equal share of the estate.

While being illiterate and unable to read the document offers relatively unusual grounds nowadays for disputing a will, the importance of clear language and understanding is a vital consideration when writing a will, if families wish to avoid later challenges.

Research conducted on behalf of the Society of Trust and Estate Practitioners among members, professionals who advise on asset management and inheritance planning, highlights the change to family structures in recent years and how this leads to increased disputes.

They describe a significant shift from traditional married couples towards a complex mix of structures, including cohabitation, same-sex relationships and transgender relationships. The family model has changed too, with rising divorce rates leading to single parent families, re-marriage leading to 'blended' families with children from previous relationships and the rise in non-biological children.

The report says that advisers are finding that this increased complexity is leading to conflict and breakdown in family relationships, giving rise to litigation. And, importantly, of those responding, 65% highlighted the problem of old-fashioned or unclear language being used in wills, trusts and deeds opening the door to later challenges.

These shifting family structures mean we tend to see more complex relationships, which are more likely to lead to competing interests between family units and different generations. When



relationships break down, the grounds on which a family may have stayed united and supportive of inheritance plans can be broken too. If the fine detail in a will or trust is not updated, with clear language, through the passage of family changes, this can be a cause for challenge.

Generally, a will may be challenged because it fails certain grounds for validity, such as lack of mental capacity or not being properly witnessed. A valid will may also be disputed under the Inheritance (Provision for Family and Dependents) Act 1975, if an individual can demonstrate they were dependent and should have been provided for.

A person making a will must have 'knowledge and approval' of its contents and it's much easier to show understanding if plain language is used. And even if plain language is used, a word might mean one thing in a legal or dictionary sense, but another thing in the mind of the person making the will. For example, 'child' has quite a narrow definition legally, but someone might think it could include step-children.

Another risk area from imprecise language is for those who have changed gender. The Gender Recognition Act 2004 includes provision for those named as a beneficiary to be

recognised as their acquired gender, rather than their sex at birth, where the will was made after 4 April 2005 and the person has been issued with a gender recognition certificate.

Problems could arise if the will was drafted without specifying the names and grounds for inheritance of all concerned, for example if certain assets were to be shared between 'sons' or 'daughters' and the transition removes an individual from their intended inheritance.

Where the birth name or previous gender is included, this should not affect the validity of the gift to that person, as the legislation has provided for that situation. Problems may arise if the identity of a beneficiary is not clear. That's why language is so important.

The Gender Recognition Act came into effect on 4th April 2005. Before this, a change in gender was not recognised by the law, so an individual would still be treated as their birth sex in any will made before that date.

To discuss this, or any other related matter with Louise directly, please call us on **01483 887766**, email **info@hartbrown.co.uk** or start a live chat today.

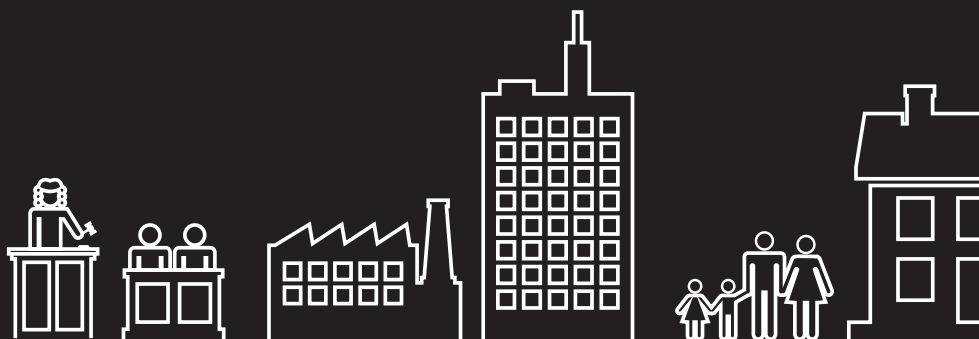


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