

**Special Interest
Articles:**

- Why should you make a Will?
- The Family Business in a Divorce
- House Insurance
- HIPs for the home

*Recommended by
Times Online*

*A past participant of
Business Growth &
Development
Programme at
Cranfield School of
Management*

Pooleys Launch

As of 1 September 2008 Pooley Dale & Co have changed the firm name to Pooleys.

This firm is the product of a merger nearly twenty years ago between two constituent firms *Pooley & Co* and *Clarke Dale & Buckley* – the latter being part of A E Smith & Co. *Pooley & Co* was established (as *Withy & Co*) in 1883. In the 1920s Alfred Withy was joined by John Pooley whose surname was then included in that of the firm.

Since then the name ‘Pooley’ has been on the letter heading, having become, as some of our clients have mentioned, the brand name.

AE Smith & Co (of which Clarke Dale & Buckley was a constituent part) was established even earlier, in mid Victorian times.

Therefore the partners have decided that because the brand name Pooley has attached itself to the firm, they will, as of 1 September 2008, carry on business under the single word name, Pooleys.

We hope that under that name we shall be able to continue to provide a good service to all our clients – both old and new.

PARTNERS

M.R.S. de Bertodano – Member of the Society of Trust & Estate Practitioners

N.J.J.Buckley – Solicitor

B.W.S.W. Robinson – Member of the Family Law & Children Panels and Collaborative Lawyers



Pooleys
Solicitors

Why should you make a Will?

Intestacy arises when a person dies leaving no will. It frequently causes difficulty particularly when a married person dies and leaves a surviving spouse. Intestacy law entitles that survivor only to personal possessions – chattels – and a statutory legacy of:

- £125,000(rising in 2009 to £250,000) if there are issue - children or remoter descendants of the intestate person
- £200,000 (rising in 2009 to £450,000) if there are no such children or descendants

The surplus assets (over and above the statutory legacy) are divided into two equal half shares. The first half share of the surplus is held in trust, to provide an income for the surviving spouse during lifetime; thereafter it passes outright to the nearest blood relations as indicated below, subject to any Inheritance Tax (IHT) payable on the death of the surviving spouse.

The second half share of the surplus (which may be liable to IHT) will pass

at once to the nearest blood relations – very often issue. If there are no issue, then parents inherit equally (or the surviving parent wholly). The parents are followed by brothers and sisters and their descendants. Intestacy provisions enable more distant classes of blood relation to inherit in the absence of nearer classes. Where there are no sufficiently close relations everything goes to the Crown.

Obviously provision has to be made for succession where there is no Will; though the statutory legacy has been increased many times over the last eighty years, the principle indicated above has been in place since 1926. Division on such old fashioned lines suits practically nobody.

To avoid it, please consider making a Will to include provisions suited to the particular needs of the family.

Please note the following:

1. The survivor of an unmarried couple has no rights upon the intestate death of the other partner.
2. Marriage almost always cancels a pre-existing

Will but:

- Cohabitation without marriage will not cancel a pre-existing Will
- In the absence of marriage the surviving partner will get nothing under the intestacy provisions; unmarried couples may have made separate Wills before the partnership begins. Pre-existing Wills may well be valid; they are rarely likely to have made provision for the surviving unmarried partner.

3. Blood relations of a surviving spouse (including step-children) inherit nothing under intestacy.
4. The survivor of a registered civil (same sex) partnership has the same intestacy rights as a surviving spouse.

The moral of all this...

MAKE A WILL & KEEP IT UP TO DATE

Pooleys' Wills department will be happy to assist. Please contact Amanda Cowan on 01793 488 848 or by email at Amanda.cowan@pooleysolicitors.co.uk to arrange an appointment. We give a 10% discount off fees for a client who refers to this article.

“Intestacy provisions enable more distant classes of blood relation to inherit in the absence of nearer classes.”



The Family Business in a Divorce

When there is a potential financial dispute following a family breakdown or divorce, it is essential to obtain a full set of accounts if one of the parties owns (or part owns) a business.

The accounts should give information about the finances of the business and about its trading performance. However, the accounts may not give the full picture; values shown for assets are rarely up to date; they may have been manipulated, perhaps by deliberate under-valuing of assets and of stocks; debtors may be incorrectly shown. Accounts are unlikely to give an easy understanding of the business, its strategy, its expansion plans and its future prospects.

A divorce court has power to allocate the value of any asset (including a business) to either spouse – or to split its value between them; this power should be borne in mind when a divorce settlement is being negotiated

A business-owning spouse, required to pay a lump sum to the other spouse, may have to raise cash, a process which can be far from straightforward. In this context the main issues to be addressed include the liquidity of the business and/or borrowing ability of the paying party.

It is unlikely that the Court will order forced sale of a business if the paying party's main livelihood is derived from it, or if such an order would prejudice outside investors. There have been plenty of cases showing that the Court will be reluctant to force a sale whose result would "kill the goose that lays the golden egg".

The role of your solicitor (often with the assistance of an expert accountant) is to explain the financial situation, to value the assets and liabilities and to advise on how a settlement may be financed, having regard to taxation and liquidity, which will need to be determined on a case-by-case basis.

For assistance in this area please contact Brenda Robinson on 01793 488 848 or by email at

Brenda.robinson@poolseyssolicitors.co.uk

Further, if you mention this article we will provide you with a free initial advice appointment.

House Insurance

Clients should consider several quotes for House Insurance Premiums.

Pooleys are aware of a recent case in which a reduction of 60% was secured by application to a new and very well known insurer.

The moral is "Shop around".

"A divorce court has the power to allocate the value of any asset (including a business) to either spouse – or to split its value between them..."



Pooleys
Solicitors

Hips for the Home

HIPS – or Home Information Packs – have now been in place since November 2007. The requirements were enlarged in June this year, so many people contemplating sale ask – how will this affect me?

From June 2008 upon sale of a house or flat a HIP must be in place before marketing the property. Failure to include all necessary contents, can render the pack defective; sellers and/or the estate agent may be liable to a fine of £200 for failure to comply.

Many documents in HIPs are prescribed by law and are in standard form. However, the required information will vary depending on whether the property is freehold, leasehold, with registered title or unregistered. Additional information may be required depending on who is selling the property, for instance Executors under a Will.



An Energy Performance Certificate is one of the required documents and an assessment must be carried out by a qualified Energy Assessor.

Pooleys have their own Energy Assessor who can carry out assessments of property at a time to suit the client.

To avoid potential HIP pitfalls instruct Pooleys to prepare a HIP. For more information please contact Julie Down on 01793 488 848 or by email at julie.down@pooleyssolicitors.co.uk

“An Energy Performance Certificate is one of the required documents and an assessment must be carried out by a qualified Energy Assessor.”

Pooleys Solicitors

A: 10-15 Regent Circus, Swindon, SN1 1PP

T: 01793 488 848

F: 01793 511 209

W: www.pooleyssolicitors.co.uk

Undertaking work in the following areas:

Home Information Pack (HIP)
Commercial & Residential Conveyancing
Inheritance Tax Planning
Lasting Powers of Attorney & Wills
Probate & Trusts

Divorce & Finance
Civil Partnership
Cohabitation
Prenuptial Agreements
Business & Family Immigration

Collaborative Law
Mediation
Domestic Violence
Children Arrangements

