

Legal Services and the Internet

Fixed Fee Services

Recognising the increasing impact of the internet on the delivery of legal solutions, Powells has introduced to their website a range of online fixed fee services.

Those of you familiar with the property process will be aware that solicitors already make use of online services to obtain Home Information Packs, Local Authority Searches, Land Registry and Company Searches. However, the profession has been slow to deliver its own services by this means.

In 2011 the so called "legal big bang" will see non-lawyers able to own law firms. This has led many solicitors to fear the likes of Tesco providing legal

services – "Tescolaw".

In our view, this is to misunderstand the market. Firms like Powells already realise the importance of being able to budget. This is why we are offering a fixed fee for many services.

However, not all services can be sold like this. You may be willing to buy a routine medical service online for a fixed price but you are unlikely to want to do the same for a heart bypass operation. Similarly, a routine house move cannot be compared to the purchase of a business or company. Some things are more complicated, take longer and require a degree of continuing personal contact not expected with an online fixed fee service.

Embracing the Internet

Powells is embracing the internet to deliver value to you through fixed fee services. If these prove popular it is our intention to add to them in the future. We would welcome your comments on this initiative and any suggestions for other services which you consider may be suitable for a fixed fee.

Visit www.powellslaw.com for more information on our fixed fee solutions.

Pay Your Legal Bills Online

You may also take advantage of our new online payment option to pay your bill by credit or debit card at a time to suit you. For details, see www.powellslaw.com.

Companies Act 2006, Company Formation Constitution and Administration

On 1st October 2009 the remaining parts of the Companies Act 2006 ("the Act") came into force including those relating company formation and administration.

The intention of the Act is to simplify matters particularly for small private companies. However, at 800 pages with 1300 sections the jury is out as to whether that objective will be achieved!

Since April 2008 private companies no longer require a company secretary and from October 2009 a company can be formed by a single person and there need only be one director. A director must be at least 16 years old but there will no longer be an upper age limit.

The documents required to be

lodged with Companies House to form a company will change and will include, among others, a new form of memorandum containing a statement from the first member(s) of the wish to form a company and detailing the number of shares to be taken.

Historically, the memorandum has always contained a statement of the objects of the company, i.e. what it is allowed to do. A major change is that the objects of new companies will be unrestricted unless the company passes a resolution to specifically restrict them.

As part of the move to "simplification" there will be a new form of Model Articles designed to cater for most small private companies. The Model Articles will set out the

management and administrative structure, dealing with such matters as directors' powers and meetings, shares and dividends, and attendance and voting at shareholders' meetings. The Model Articles will apply unless a company chooses to modify or exclude them.

Another significant change will be the ability of directors to keep their residential addresses private. Companies House will still keep a register of private addresses but it will not have to disclose this to the public except in limited circumstances.

Since April 2008 companies can validly execute a deed by a single director in the presence of a witness. This and new rules allowing electronic filing of annual returns will make life

simpler for smaller companies. There may also be opportunities for existing companies to adapt their structure to make the company cheaper and easier to run.

It is too early to tell whether the simplifications introduced by the Act will outweigh the changes but there is no doubt that it will be a busy time for company directors and their legal advisors.

For further information, please contact Stephen Soper on **01934 637 915** or email soper@powellslaw.com.

we keep you informed

Crown Court Fees

In October 2006 a means test was introduced to determine eligibility for legal aid for criminal defendants appearing in the Magistrates' Court. Youths and people in receipt of certain state benefits or on low incomes are exempted from the means test.

Until now, all defendants whose cases are either in the Crown Court or are directed by

the magistrates to be tried in the Crown Court have also been exempted from the means test.

This is about to change. A means test in the Crown Court is about to be trialled in some areas in January 2010 and then rolled out nationally in April 2010. Generally, everyone appearing in the Crown Court should still

qualify for legal aid. Once legal aid is granted, it will not be revoked. However, those who can afford to pay out of their capital (currently in excess of £30,000) or their income (currently disposable income in excess £3,398) will be required to pay a contribution towards their defence costs. The Legal Services Commission will have powers to recover the contribution including

registering charges on property, and failure to pay may result in sanctions.

If you have any questions about applying for legal aid in the Magistrates' Court or the new Crown Court means test and whether or not it will affect you or someone you know, please contact John Weatherall on **01934 637 920** or weatherall@powellslaw.com.

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This newsletter is a service provided by Powells Solicitors. All information is correct at time of going to press.

Planning Act 2008

The Planning Act received Royal Assent on 26th November 2008. The Act will deliver two new planning regimes as well as making several changes to the existing planning system. The two new planning regimes are:

- A single regime for "Nationally Significant Infrastructure Projects" which will include a new "Infrastructure Planning Commission" to make decisions; and
- A "Community Infrastructure Levy" to be paid by owners or developers of land when they commence development to help fund the infrastructure needs of the locality.

Infrastructure

Nationally significant infrastructure projects include development and/or construction projects relating to energy production, storage and distribution, highways, airports, railways, harbours, water supply and treatment and hazardous waste. Applications for planning permission, to be known as "Development Consent Orders", are to be made to and decided by the Infrastructure Planning Commission which is new body to be set up by the Secretary of State. The Infrastructure Planning Commission will make its decisions

based on "National Policy Statements" prepared by the Government.

National Planning Statements will include:

- The amount, type or size of specified development appropriate, nationally or for a specified area
- The criteria to be applied in deciding whether a location is suitable for a particular type of development
- Identifying the location as suitable or not suitable for development

There is very limited scope to challenge a National Policy Statement once it has been made and it is crucial, therefore, for local authorities, land owners and any one affected to have their say at the policy stage as subsequent challenges will be much more difficult to mount.

Community Infrastructure Levy

The Community Infrastructure Levy, if implemented, will allow local planning authorities to impose a charge or levy which will be payable when the planning permission is implemented i.e. when the development is built. It is envisaged that a local authority

opting to charge the Community Infrastructure Levy will produce a "Charging Schedule" setting out the contributions which particular types of development will be expected to pay.

The Act doesn't specify whether it is the owner of land or the developer of land who will be liable to pay the levy and this will be set out in regulations which have yet to be made. Owners and developers entering into development agreements with local authorities before those regulations are made should ensure, therefore, that there is a clear statement about who is to pay any levy.

The existing system of contributions by developers for larger developments under Section 106 of the Town & Country Planning Act remains in force and will sit beside the new Community Infrastructure Levy. Assuming the Community Infrastructure Levy is implemented, it will be interesting to see how local authorities operate the two regimes.

Changes to the existing planning regime

Although the new regimes outlined above comprise the main part of the Act, it is the changes to the existing planning system which are likely to be of more immediate

interest to those in the property industry. These changes include:

- The power to enable local authorities to impose fees in connection with planning applications – this means that local authorities may now charge in respect of application advice, stopping up orders and meetings with developers about development plan policies
- The power for local planning authorities to make non material changes to planning permissions which will include imposing new conditions or removing or altering existing conditions. What constitutes "material" will clearly generate debate
- A new requirement for policies addressing climate change to be included within Region Spatial Strategies and Local Development frameworks. Climate change implications of a new development will now have to be a material consideration at national, regional and local planning policy levels and will need to be addressed when submitting planning applications
- Since April 2009 local authorities can refuse to entertain twin tracked planning applications, a tactic often employed in the past by developers to put pressure on

the local authority to grant permission. Effectively, a local authority can refuse to determine an application where there is a similar one pending still to be determined

- Since April 2009, the Planning Inspectorate has the power to decide the means by which all planning appeals will be processed. The aim is to reduce the number of hearings or enquiries and the vast majority of planning applications are likely to be dealt with by written representations. It will be possible to claim costs on written representation appeals
- The power for the Planning Inspectorate to charge developers fees for planning appeals
- The simplification of the Tree Preservation Order system

The aim of the Government in making these changes is to make the planning process more efficient. There is still a mass of secondary legislation and materials to be issued and we will have to wait and see whether its objective is ultimately achieved.

Please contact Glyn Evans on **01934 637 911** or evans@powellslaw.com for further information.

Staff Focus

Powells Annual Meeting



Each year we hold an annual staff meeting where we acknowledge significant achievements throughout the year, welcome new staff and outline our business plans for the forthcoming year.

This year the meeting was held at la Cucina Italiana in Uphill where we all enjoyed a light meal and refreshments.

Pictured above is Senior Partner Glyn Evans presenting a staff incentive award to Jenny Brading, Probate Solicitor.

we keep you informed online @ www.powellslaw.com

contact

01934 623 501

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INVESTOR IN PEOPLE

resolution
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Lexcel
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Law Society Accredited

7-13 Oxford Street
Weston-super-Mare
North Somerset BS23 1TE

Tel: 01934 623 501
DX: 8405
Fax: 01934 635 036
Email: info@powellslaw.com