

## IN THIS ISSUE

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### **MICHAEL MORGAN CELEBRATES 50 YEARS ON ROLL OF SOLICITORS**

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### **BEWARE OF GENERIC WILL WRITERS!**

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### **CAN YOU DISMISS AN EMPLOYEE FOLLOWING REPEATED MINOR WARNINGS?**

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### **HEALTH & SAFETY AT WORK**

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### **OTHER NEWS**

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## **Michael celebrates 50 years on Roll of Solicitors**

*1 December 1966 - 1 December 2016*

Michael Morgan started working at AFG LAW at the age of 16 in September 1961 as an office boy in a school holiday job and became an articulated clerk (trainee solicitor) with the firm. The route to becoming a solicitor for Michael was to spend 5 years in the office gaining experience, going on to take an intermediate exam and then the solicitors final exam. He qualified and was admitted as a solicitor on 1 December 1966.

He has been on the Roll of Solicitors for over 50 years now, which in itself is an achievement recognised by the Law Society for those solicitors still practicing. Michael received his certificate earlier this year from the Law Society.

Michael became a partner in 1970 (one of just three) and has always worked in the property department dealing with clients personal affairs and business dealings, but mainly land and property matters, including lots of land related disputes. Michael is recognised as one of the UK's leading experts in rights of way, easements and boundary dispute matters.

In 2003, when he reached the age of 60, Michael gave up his partnership but stayed on in the firm as a consultant at AFG LAW. However, Michael prefers to be known as an associate solicitor!

The whole team at AFG LAW would like to congratulate Michael on his achievements to date!

*Michael Morgan pictured outside our Bolton office*



# Beware of generic will writers!

*Greg French and Anita Boardman*



Far too many people do not have a will or have an outdated will. You can make your own will of course, or you can use a generic will writing service to provide you with a “cheap” will. However, the best option will always be to use a qualified solicitor to sort your will out. We explain why below.

Unlike a solicitor, generic will writers do not have to undergo any training, have insurance, and are not regulated by any organisation (like the Solicitors Regulation Authority) which ensures that they must conduct their activities in the interests of their clients and provide some form of redress, if things go wrong. So if they go out of business there is little that can be done – even if the will cannot be found, despite the client incurring charges for storing it.

One mistake can make your will completely useless as a legal document. Do not be fooled by a professional sounding business name if the will writer has no specific legal experience not to mention qualifications! Using templated documents to state your wishes can be cheap, but if the will writer doesn’t know what they are doing, your will could be disregarded entirely – and if your family wished to challenge it, they may find the legal fees to do so are too high.

The reality is that the service provided by a solicitor is not that much more expensive than other options, but what you will have is complete peace of mind knowing that everything is as it should be. At AFG LAW we offer a fixed fee will writing service and also register those wills with Certainly, the National Will Register.

If you don’t have a current will in place, you risk leaving your loved ones with nothing. Dying without a will means that you are known as “intestate” – the laws of intestacy are very clear and the government do not consider your personal relationships after you die. The estate would be shared out according to certain rules. As these rules are quite old, one example of a potential problem that could arise is that Intestacy Rules do not recognise unmarried or “common law” partners. Not to mention the tax implications if your affairs are not planned properly.

In a nutshell, a generic will writer will not be able to write your will like a solicitor can.

Greg French and Anita Boardman can help you with your wills, estate planning and lasting power of attorney to ensure that your estate is left in accordance with your wishes. Contact them for more information on 01204 377600.

## Hardy Mill Primary School

*Carl Fletcher*

AFG LAW was proud to support Hardy Mill Primary School's Summer Fair again this year. Hardy Mill is a local school in Harwood, Bolton.

It was a great day with live music, food, games, stalls, bouncy castles and lots of fun for children and adults alike.



**HARDY MILL**  
PRIMARY SCHOOL

# Can you dismiss an employee following repeated minor warnings?

*Matthew Taylor*

As an employment law specialist, Matthew Taylor is often asked whether or not warnings which an employee had previously been given (and which had since expired) could then be used to justify that employee's dismissal after they had committed another minor misconduct offence.

Just exactly what can be done with an employee who is frequently the subject of disciplinary action, yet the misconduct which led to such action being required does not quite reach the 'dismissal threshold'?

This matter was recently raised in the case of *Stratford v Auto Trail VR Ltd*. In this case, Mr Stratford found himself in the unfortunate situation of having been subjected to disciplinary action for the 18th time since he commenced employment.

Whilst the offence he had committed was relatively minor in nature (he had been carrying his mobile phone on the shop floor), his employer took the view that –in light of this being Mr Stratford's 18th offence, together with his behaviour being highly unlikely to change in the future– termination of his employment was entirely reasonable in the circumstances, and accordingly took the decision to dismiss him. Mr Stratford however disagreed and ultimately issued Tribunal proceedings alleging unfair dismissal.

Mr Stratford's case –he argued– was that where an employee is guilty of misconduct which falls short of gross misconduct, then it is unreasonable for an employer to rely upon earlier misconduct (in respect of past warnings) in justifying the decision to dismiss.

Unfortunately for Mr Stratford however, both the Tribunal and Employment Appeal Tribunal disagreed. In handing down its decision, the EAT re-iterated that –whilst any expired warning cannot be the factor which 'tips the scales' in favour of dismissal– an employer can still nonetheless take into account the past misconduct which lead to the (now expired) warning being given, when ultimately determining whether dismissal is a reasonable response in all the circumstances.

In terms of what this equates to in practical terms for employers, it is advisable to ensure you have a clear policy in place clarifying how you intend to deal with 'repeat offenders', together with ensuring you keep good, reliable records in respect of any past incidents in which employees are involved and which ultimately led to disciplinary action being warranted.

Matt can help you with this – contact him on 01204 377600.



# Health and safety at work

*Rahil Khan*



The Health and Safety Act 1974 has been in force for 40 years. The purpose of the Act is to provide a regulatory framework for workplace health and safety in Great Britain.

The Health and Safety Executive (HSE) administer the Act and the emphasis is on preventing death, injury and ill-health in workplaces but also targeting employers that deliberately flout the law.

Therefore there is an onus upon all employers to ensure compliance and failure to do so may result in enforcement action with the ultimate consequence of prosecution by way of charging with offences and proceedings. Commencing in the Magistrates Court and depending on the seriousness of the non-compliance, the penalties range from financial, community orders with requirements such as unpaid work (community service), curfew with a tag and imprisonment. The same sentences are available in the Crown Court but with higher fines and longer terms of imprisonment.

The HSE in their literature state they believe the penalties available to them are too low and this includes fines and custody so they have a very rigorous approach on prosecution.

Our view is legal assistance is required at the very outset of a HSE investigation and it may be they are persuaded not to prosecute and encouraged possibly persuaded to see that there has been full compliance by analysing the legislation.

However the HSE may decide there is a case to answer which may then result in negotiation to avoid court proceedings.

Enforcement can include serving notices on duty holders, withdrawing approvals, varying licences, conditions or exemptions, issuing simple cautions and providing information face-to-face or in writing.

The more major the incident the more significant the response from the HSE and crucially the HSE also consider the potential to cause serious injuries, ill-health -which may be immediate or delayed- and loss of life.

Contractors and self-employed people who may be working for you are also your responsibility as an employer.

This is complicated legislation and its intricate workings require expert advice and representation.

Our belief is that although the HSE may appear to be helpful their interests are not aligned with the employer or organisation under investigation.

We offer independent legal advice in this specialist area. To discuss any health and safety issue contact Rahil Khan at our office on 01204 377600.

Let us help.



# Well done Heather!

*Heather Loynd*



The Family Department are delighted to announce that Heather graduated with a Graduate Diploma in Law (GDL).

She started at AFG LAW in December 2013 with no legal experience or training. Heather joined the firm as a family paralegal and has worked in this role throughout her time at AFG LAW.

She commenced her GDL in September 2014 and passed with commendation in June 2016 at Manchester Metropolitan University. She has also completed year one of her Legal Practice Course (LPC) at the University of Law and will complete this qualification in July 2018.

Both courses have been taken part-time whilst working at AFG LAW as she pursues her goal of becoming a qualified solicitor.

Well done Heather. This is a great achievement and we are all very proud of you!

# Fabulous at 40!

*Catherine Woolley*

Director Cath Woolley celebrated her 40th birthday last month.

A family solicitor, Cath predominantly specialises in representing children and is a member of the Law Society's Children Panel.

Best wishes from all at AFG LAW to her!



# Bolton Lads & Girls Club

*Anthony Theakston and Jean Mellor*

Anthony and Jean attended the last Patrons evening representing AFG LAW and had a lovely time with some impressive performances from local children. There was dancing, bands and speeches from young people, their mentors and a parent - all of whom have had their lives positively affected by the support provided by BLGC to the youth of Bolton. We are told that the curry served on the night was very good too!



# Our legal services

Can we help you?

6

## Family

Divorce & matrimonial finances, Social/Children's Services involvement, mediation, pre-nuptial & post-nuptial agreements, injunctions, child arrangement issues, cohabitation disputes

## Property

Property sales & purchases, contract / lease negotiations, equity release, rights of way matters, wills & probate, lasting powers of attorney

## Civil

Accident claims, employment law, boundary disputes, debt, housing, criminal injuries, compensation claims

## Criminal

Police station support, sexual, public order and weapons offences, theft, burglary, common assault, criminal damage, drug related charges, serious fraud and business crime

**GOT A QUESTION?** Our door is always open and one of our team can speak with you free of charge in total confidence. We run **free weekly legal clinics every Wednesday** at our Bolton office between 5pm and 6pm - JUST CALL IN - or you can ring us on **01204 377600** (Bolton office) or **0161 359 3880** (Bury office) .

## AFG LAW Financial Planning Ltd

Tom Williams, IFA

Our sister company AFG LAW Financial Planning can provide you with a seamless transition from legal to financial advice. Tom Williams is our dedicated Financial Planner and he can help with:

- life insurance and income protection
- retirement and pension planning
- investments
- inheritance tax planning

Plus much more. Call Tom on **01204 377621** or email **financialplanning@afglaw.co.uk**

