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## So You Think Your Home Is Your Castle?

That may have been true a long time ago but the reality of modern life is that increasing numbers of public officials now have rights to enter on to private property. They cannot enter a property unless the laws allow it but more and more laws seem to be allowing more and more public officials to enter private property as every year goes by.

In the 1950s there were only about 10 laws permitting officials to enter private property. By the 1990s, this had increased to about 60. Now there are almost 300 different laws that may allow public officials to enter your home. These include the obvious (police, fire service and local authority) but also a range of the weird and wonderful.

Whilst it is correct that the police, for example, will often need a warrant from Magistrates before entering property, there are many occasions when no warrant is required. For example, if you are suspected of driving over the limit, the police may enter your land and arrest

you. Even if a warrant has been obtained, you will not know about it (you will certainly not be told about it in advance of the application) until the relevant official arrives on your doorstep and demands the right to enter.

Officials can enter your home if they believe you have been watching television without a licence or using a hose-pipe when banned. They can even check your fireplace in a smoke control area. If you see a man with a theodolite in your garden be careful! He may from the Ordinance Survey Map Department and he has the right to come on to your land if he chooses to. What's more you will be liable to a fine of £200 if you obstruct him!

Do you keep bees or chickens? Bee keepers should be aware that officials can come in to your garden and check for the presence of infection or of foreign bees – although how can you tell a foreign bee from a domestic bee? Perhaps they use different buzz words ..!

If you keep chickens, be careful! An Inspector may enter your premises without warrant to examine them. If you refuse to let him on to your land – you can be fined £5000 or sent to prison for a month. And if you live in a house overlooking the sea be careful not to be seen flashing a light from your upstairs window. It could be taken as a signal from you to smugglers and that allows customs officers to enter your house. On top of this Local Authorities have the right to enter your property to do such things as check the height of your hedge and to measure noise levels. The weights and measures man can demand entry to check for evidence of unqualified persons acting as Solicitors!

So if you still think your house is your castle try pulling the portcullis down and you will find it wedged open by the various machinations of the Houses of Parliament which, ironically, proudly boasts on its Coat of Arms – a portcullis!

## Can Your Boss Change Your Working Week?

Employers may wish to vary the terms of an Employment Contract to react to changing circumstances or to reorganise a business to make it more efficient or profitable. During hard times, employers may seek to change terms relating to pay, benefits or working hours.

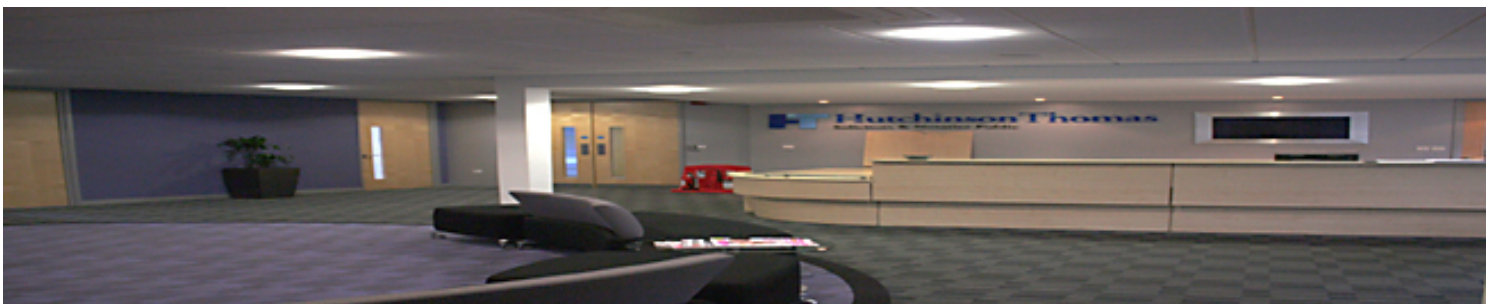
If the proposed changes favour the employee, there is unlikely to be any difficulty but if changes are unfavourable there is the potential for problems. Any change imposed by the employer will normally be a breach of

contract and may entitle the employee to compensation unless the employer has a contractual right to vary the terms of the contract or the employee's consent to this.

In a recent case, Asda wanted to harmonise all of their staff's contracts to the same pay and work structure as historically some were on better terms than others. Asda claimed that the changes were lawful and relied on a very general clause in their staff handbook which read: "Asda reserve the right to review, revise, amend or replace the

contents of this handbook and introduce new policies from time to time reflecting the changing needs of the business". Crucially, the handbook was incorporated into the staff contracts of employment.

The Tribunal decided that the wording in the handbook was wide enough to allow Asda to make changes to the pay and work structure. Provided that these were properly implemented, consent of the employees was not required.



# Where there's a Will, there may be a Challenge

A person is generally free to make a Will disposing of their assets as they see fit. The law does, however, provide protection for close relatives of a deceased or those who were financially dependent upon him or her. This protection is under the Inheritance (Provision for Family and Dependents) Act 1975.

This law exists to help spouses, former spouses, children, civil partners, cohabitants and other surviving dependants who are left without "reasonable financial provision". What is reasonable in each case depends on all of the circumstances involved (e.g the size of the

estate, the financial resources of the relative) but a person disadvantaged in this way is able to make an application to court within six months of the date of the Grant of Representation. The court then considers all of the circumstances before deciding whether reasonable financial provision was made. If not, the court decides how the estate should be shared out.

Simon Thomas, partner who acts in Inheritance Act claims and member of the Association of Contentious Trust and Probate Specialists, states, "We regularly act for people who are making claims under the Inheri-

tance Act and also act in many estates for the personal representatives or beneficiaries in defending such claims. It is in everyone's interests that such claims are settled by agreement without having recourse to the court but if no agreement can be reached the Inheritance Act empowers the Judge to make decisions which are just and fair.



## Will A Care Home Affect My Own Home?

A relative's move into a care home is likely to affect the whole family. As well as being an extremely emotional time, there are often serious financial concerns including whether the house must be sold to pay for the care.

The first issue to resolve is who foots the bill. If a person has significant, complex and ongoing physical or mental needs, he or she may qualify for NHS funded Continuing Care. If not, a financial assessment is carried out. A person with assets of less than £20,750, will receive assistance from the Local Authority but anyone with assets over £22,000 (including half of any joint assets) will be responsible for paying their own way. As the average weekly cost of care in Wales is £500, this can have a significant effect on the finances.

Unless a person has sufficient income to cover the costs, their capital must be used. Typically, the greatest concern is whether the house will need to be sold. The house will be ignored if, for example, the spouse or partner still resides in the property or if it is still occupied by a relative aged over 60 or who is incapacitated. The Local Authority may also disregard the house's value if, for example, it is the sole residence of someone who gave up their own home to care for the owner.

If someone gives their house away, the children, the Local Authority and the Department for Work and Pensions have the right to examine the timing and motivation of such a gift. If they can establish that the owner

deliberately deprived himself of the house to try and obtain funding, they can treat him as still owning it.

The timing of any gift is crucial. There is no time limit (the 7 year rule relates to Inheritance Tax, not to care home fees) but, provided a house is transferred at a time when the owner was fit and healthy and could not have foreseen the need to move to a care home, it would be unreasonable for a Local Authority to argue that the property should be taken into account.

Transferring a property is not something to enter into lightly and it is essential that you take legal advice to ensure that your rights to continue living in the property are safeguarded.

## The Neath Front Row

Three of the Firm's partners have again been heavily engaged in the disciplinary process of the rugby world.

Robert Williams, Roger Morris and Simon Thomas have been members of the European Rugby Cup's elite panel of Judicial Officers since 2009. They are the only three Welshmen on the panel which comprises just twelve Judicial Officers from the whole of Europe. They were also appointed as Judicial Officers to the Autumn internationals and for the 2010 RBS Six Nations tournament.

High profile matters in which they have been involved

include the now infamous Harlequins 'Bloodgate' misconduct case, in which Robert Williams was chair of the original disciplinary committee. Accused of using fake blood to arrange a player's substitution, Harlequins were later vilified for attempting to play ketchup rugby! Another high profile case concerned Irish International Alan Quinlan. Roger Morris and Simon Thomas were part of the committee that banned the player so that he lost his place in the Lions tour to South Africa.

More recently, Robert Williams sat on the Appeal Committee that confirmed the 70 week suspension of French

player Attoub (accused of "gouging") and Roger Morris chaired the Committee that suspended Jerry Flannery after his indiscretion in Ireland's match against France.

The judgements can be viewed on [www.ercrugby.com](http://www.ercrugby.com)



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