

# K NEWS

ALL THE LATEST NEWS AND EVENTS FROM KERSEYS SOLICITORS



## Take a Brexit, Take a KitKat

The Court of Appeal has recently determined against Nestle in its long running 'KitKat' trade protection case against Cadbury.

The judges upheld a previous High Court ruling that the four fingers shape of KitKat was not distinctive enough to qualify for protection from copying. Interestingly, part of the reasoning for this was that it had not been promoted as a selling point because the shape is concealed by the (silver) packaging.

This does seem a little harsh on Nestle but emphasises the point that those producers claiming protection will need to prove that consumers are influenced by a 'distinctive mark' to identify where a product comes from. It is obviously much harder to do this with shapes, smells, colours and other sensory experiences than say a brand marking.

The case is also significant in the context of Brexit. EU legislation and judgements are generally more likely to support trade mark claims. In an earlier judgment, by the European Court, although Nestle lost in terms of outright protection across Europe the court did find that the shape had acquired distinctiveness in the UK.

This is also not the first time incidentally that Kerseys have been able to report legal cases on confectionery which have hit the news: (Why Jaffa Cakes are Cakes Not Biscuits)

See our earlier blog [www.kerseys.co.uk/blog/jaffa-cakes-cakes-biscuits/](http://www.kerseys.co.uk/blog/jaffa-cakes-cakes-biscuits/)

## Kerseys Seminars

The firm held two FREE seminars to help family run businesses avoid legal pitfalls. And of those who attended, nearly all said bringing in new business partners and preparing for sale was an area of interest.

Speakers from four different departments gave a talk at the events at Colchester United Football Club and The Ipswich and Suffolk Club to help owner-managed businesses protect their interests.

Attendee Mucha Murapa, a digital marketer, said: "I found the information relevant and very insightful. As someone who advises others on how to build their business from the customer acquisition and retention side, the content provided much 'food for thought'!"

## PROMOTED TO PARTNERS

*Kerseys Solicitors has promoted two of its team members to become partners in the firm.*



**Thara Thangavel**, who works in the private client department, and family solicitor **Janet Raeburn** have been recognised for their commercial contribution to the company's success.

Managing partner Anthony Wooding said: "Thara and Janet are assets to the company. They both bring in new clients and their professionalism helps to maintain customer loyalty. They bring a range of experience to the firm and this promotion recognises their contribution to our continuing success."

Thara (above left), who joined the firm in 2008 and became an associate five years later, specialises in wills, trust and estate administration, Court of Protection work, powers of attorney and inheritance tax planning.

Thara said: "I'm delighted to become a partner in the firm and to play an active role in Kerseys Solicitors' future."



Janet (above right) joined the firm in 2011 and became an associate in 2015. She advises on a range of family law issues, including children matters, cohabitation issues, divorce, and financial issues arising from the breakdown of a relationship.

Janet said: "It's an honour to receive such recognition for our hard work and commitment. I look forward to being a part of Kerseys as the firm moves forward."

*Kerseys became a limited liability partnership (LLP) with effect from 1st July in order to further streamline its business model.*

*The term 'partner' now refers to a member of Kerseys Solicitors LLP and to an employee with equivalent standing and qualifications.*

# Dementia Friend

*The team at Kerseys Solicitors have received a certification of recognition on behalf of the Ipswich Mayor Roger Fern after becoming a 'dementia friend'.*



The firm has joined a campaign, along with other local businesses and organisations, to work towards Ipswich become a dementia friendly community.

The Ipswich Dementia Action Alliance (IDAA) has been set up to support people living with Dementia.

And a team from Kerseys took part in an IDAA 'Become a Dementia Friend' training session to understand more about the condition – and how to communicate more effectively with people who have it.

Kerseys managing partner Anthony Wooding said: "It is great to be recognised as a 'dementia friend' and play our part in help raise a greater understanding of the condition –both for those experiencing it and those caring for them."

Around 12,000 people in Suffolk are currently living with dementia but the number is expected to quadruple in the coming year.

Events have been organised to help support people affected by dementia, such as the East of England Co-op, in partnership with the Ipswich and Felixstowe Dementia Action Alliances, arranging a trip to the seaside. The Ipswich Transport Museum provided a 1940s double

deck bus to take people to Felixstowe for time at the beach, followed by afternoon tea and a chat.

The IDAA is chaired by Nicola Bradford of LimeSkills, and is supported by a number of businesses and organisations in the town, including the outgoing Mayor of Ipswich, Roger Fern, who will now have an active co-ordinating role in IDAA.

Ipswich Town & Waterfront is also part of the IDAA and is promoting the local 'Become a Dementia Friend' training sessions.

If you want to find out more about the Ipswich Dementia Action Alliance and upcoming Dementia Friends training, visit [www.dementiaaction.org.uk](http://www.dementiaaction.org.uk)

For more information on dementia, including information for carers and those living with Dementia, visit [www.alzheimers.org.uk](http://www.alzheimers.org.uk)

# Supporting the Ipswich Jazz Festival

A host of national names joined local artists for Ipswich Jazz Festival's three day event this summer.

The festival, which last ran in 2015, returned from June 23 – 25 at venues across the town. It included live music, art shows, dance, film screenings and workshops.

The Back to Basie orchestra, which has been voted best British Big Band at the British Jazz Awards six times, was among the star performers.

The event was once again sponsored by Kerseys Solicitors, along with Ipswich Borough Council, Arts Council England, Ipswich Town and Waterfront and ColourPlan Print.

Many of the events were free – and the not-for-profit venture kept paid-for ticket prices as low as possible.

Organiser Neil Bateman said: "We are not a commercial venture, but a community activity. For this reason, the support from local businesses and organisations has been invaluable and we are extremely grateful!"

Anthony Wooding, managing partner of sponsors Kerseys, said: "We supported the festival for a second time because it's such a great community event. They had a great line-up."

Claude Deppa and the Clare Hirst Band opened the festival at the Manor Ballroom on Friday, June 23.



This was followed by 'Stars at St Peter's' at St Peter's by the Waterfront. It included music from John Etheridge, Vimala Rowe

(pictured), Art Themen, The Chris Ingham Trio and the South Suffolk Youth Jazz Ensemble. Top names played both alone and together.

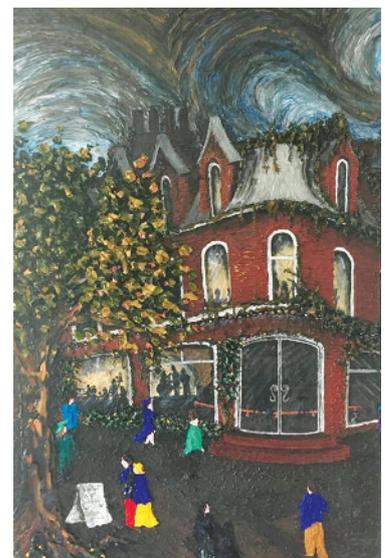
The festival closed on Sunday, June 25, with London based Back to Basie – capturing the sound and spirit of the legendary 'Swingin' Machine'.

Workshops were held in Lindy Hop, music photography and a various types of jazz. Film screenings will feature Finding Fela! by Oscar-winning documentary maker Alex Gibney, and a remastered version of 1940s musical Stormy Weather. There was also be a variety of free pub gigs.

And Subterranean Arts hosted two exhibitions, one at 21 St Peters Street and at the Town Hall, to showcase artists' responses to jazz and memorabilia from private jazz collections.

Local artist Jenny George, who is known for her vibrant and quirky work, displayed her Georgie Porgie's Wine and Jazz Bar painting. It features 'The Jos Major Band' as a nod to Joshua Major; 'Major's Corner' namesake, who altered the course of water and history of Ipswich.

She said: "I hope to bring some of Ipswich's history to the present. The scene I wanted to create was one of theatrical energy, with colourful, musical vibrancy."



There was live jazz with Johnny Sax, along with contemporary jazz vinyls, at the Subterranean Arts Gallery garden.

For more information, visit [www.ipswichjazzfestival.org.uk](http://www.ipswichjazzfestival.org.uk) or 'like' their Facebook page [www.facebook.com/ipswichjazzfestival](https://www.facebook.com/ipswichjazzfestival)

# CO-MEDIATION

*A lawyer and accountant, who have over 60 years' experience combined, have joined forces to help resolve potentially costly disputes.*

Anthony Wooding, who has 30 years' experience of resolving property and commercial disputes, and David King, who has over 30 years' experience as an accountant and tax advisor, offer civil and commercial mediation services.

The pair work as part of Albert Square Mediation (ASM) Suffolk, a network with branches as far-flung as Brazil.

Mediation is all about helping resolve disputes between two parties who would otherwise end up in court.

Anthony, who is the managing partner at Kerseys Solicitors, said: "We co-mediate so that we can offer a mix of legal and financial experience. Those taking part can get the best of both worlds – at no extra expense."

Mediation involves an independent third party to help both sides come to an agreement – and is usually much quicker and cheaper than going through the courts.

The government encourages settling disputes out of court and offers funding in some cases. As a result, Anthony has witnessed a five-fold increase in the use of mediation compared to five years ago.



The Oxford graduate, who has worked on a range of issues – from the eviction of travellers from private property to competition law – said there are many benefits to mediating.

He said: "Mediation can be much quicker and cheaper than going through the litigation process. It's also confidential and many people prefer it to airing their dirty laundry in public."

A complex land or commercial dispute could cost anything from £20,000 to hundreds of thousands if it goes to trial, whereas mediation with legal representation can start from less than £2,000.

David, who is the company director of accountancy and tax advisory firm Guymer King, has dealt with a range of financial disputes.

The Ipswich Orwell Rotary Club member, who regularly lectures on entrepreneurship at the University of East Anglia, said: "Whereas the court process can drive people further apart, mediation can help salvage relationships. Court is about right and wrong and recompense, whereas mediation is about bringing people together to solve an issue."

David, who is a churchwarden and treasurer to both the Suffolk Historic Churches Trust and the Choral Foundation of St Mary-le-Tower church in Ipswich, said mediation began in the church.

He said: "The first mediators were parsons or priests at a time when the church was a sanctuary. The process was about getting people to cooperate. This principle remains the same today."

For more information about Albert Square Mediation (ASM), visit [www.albertsquaremediation.co.uk](http://www.albertsquaremediation.co.uk)

## Art movement and solicitors host balloon art exhibition

A team of artists and a law firm from Ipswich have joined forces to host an exhibition of sculptures – made from balloons.

Kerseys Solicitors is sponsoring Inflated Inspirations, which is balloon art based on the work of Pop My Mind (PMM).



Award-winning balloon artist Samuel Stamp-Dod came up with the idea to make the online work physical – albeit just for a couple of weeks.

The former Suffolk College performing arts student said: "I loved the PMM

idea, whereby one artist inspires another's work and so on. I wanted to create a balloon sculpture which also had an artistic message. I would like people to see the art first and then notice the balloons. The exhibition would only last a couple of weeks at most because the balloons will

deflate. But I want it to be as eye-catching and fun as possible during its lifespan."

Samuel will team up with a dozen other balloon artists and guide them in building the exhibition. The work will take a week to prepare – and the exhibition will run for 11 days, PMM, an online hub for artists of all disciplines, sees one artist upload their work, such as a drum beat or the first lines of a story to which other artists respond in whichever medium they wish – known as 'popping'.

Anthony Wooding, managing partner of Kerseys and a published artist, said: "This time PMM's work may indeed go 'pop' while in balloon form. I love the work that both Samuel and PMM do and I think it will make for a great event."

The work will see a full-size tree grow from the centre of the gallery – with its branches leading out to new works inspired by pieces in the PMM collection.

The exhibition will be immersive and interactive – encouraging visitors to walk through, touch and explore the art.

Oliver Squirrell, a musician and photographer, set up PMM for painters, film-makers, musicians, poets and creative artists. He said: "Most people have seen balloon models at fetes and festivals.

But this will be taking things much further and creating designs that tell a story. It will challenge you to think of balloon art in the same way as you might view theatre, pottery or even paintings."

Samuel added: "We're really pleased that Kerseys is on-board. I'd met Anthony at a networking event and became aware of his love for the arts. So, Kerseys were the first people I approached to support us and they have been a great help."

The exhibition is free to all members of the public. A range of activities will be hosted during the day which will be suitable for children and families, followed by entertainment in the evening geared towards adults.

The exhibition will be held at the Waterfront Gallery, part of the University of Suffolk, this summer from Friday, July 28, to Monday, August 7.

For more information [www.ipswich-arts.org.uk](http://www.ipswich-arts.org.uk)

To see Kerseys' latest videos and for advice on various legal matters, visit [www.youtube.com/user/KerseysMediaTV](https://www.youtube.com/user/KerseysMediaTV)

## Seven employment law changes

The government has introduced a range of regulations over the course of the last year. Here is a summary of seven changes which employers should be aware of:

### 1. Zero hours contracts

Any employee who is dismissed because they allegedly breached an exclusivity clause in their contract can claim that they were automatically unfairly dismissed.

### 2. National Living Wage

From April 2017 it became compulsory to pay workers aged 25 or older a minimum of £7.50 per hour.

### 3. Financial penalties

Employers who do not pay Employment Tribunal awards or sums due under ACAS COT3 agreements will now face financial penalties. An Employment Tribunal may impose a penalty of up to half of the unpaid sum, up to a maximum of £5,000.

### 4. The Trade Union Act

The Act made various changes in the balloting requirements and time limitations for workers to take part in 'lawful' industrial action. The key provisions came into force on 1 March 2017. They include (a) a requirement that at least 50% of those who are entitled to vote must do so and then a simple majority is needed for industrial action to be lawful, (b) a ballot mandate expires after six months and (c) unions must now give 14 days' notice of impending industrial action, rather than the previous seven days.

### 5. The Immigration Act 2016

It is now a criminal offence for employers to employ an individual where they have 'reasonable cause to believe' that the individual is working illegally. The Act also increased the criminal penalty for employing an illegal worker from two years to five years imprisonment. In addition, the Act introduced a criminal offence of working illegally, which means that individuals who are caught working when they are not allowed can also be prosecuted.

### 6. The Modern Slavery Act 2015

Businesses with an annual turnover of more than £36 million must now publish their slavery and human trafficking statements on their websites. This is intended to encourage businesses to make greater efforts to identify and combat slavery and trafficking within their own supply chains.

### 7. Gender pay reporting

Employers with 250 or more employees are required to publish statutory calculations every year showing how large the pay gap is between their male and female employees.

## Employment law cases

Working practices have been challenged by several employment law cases. Here is a quick round-up of changes to be aware of:

### 1. Childcare vouchers

An employer no longer has to provide childcare vouchers during maternity. However, the impact of this is likely to have been reduced by the announcement in the 2016 budget that childcare voucher schemes will be closed to new entrants from April 2018.

### 2. Reasonable adjustments

Employers must make reasonable adjustments to make sure disabled workers (including contract workers, trainees, apprentices and business partners) aren't seriously disadvantaged when doing their jobs. This includes changing the worker's role. The Employment Appeal Tribunal has now held that protecting an employee's pay, so that their pay is not reduced when they take up a 'lesser' role, is potentially a reasonable adjustment.

### 3. The definition of 'race'

The Supreme Court has refused to further extend the definition of race to include 'immigration status'. It found that two migrant workers who had been mistreated on the basis of their immigration status had not been discriminated against because of their race.

### 4. Employment status

High-profile cases involving self-employed drivers for the likes of Uber and Deliveroo have focused heavily on employment status and rights.



In the case of Uber, the Employment Tribunal held that such individuals should be classed as workers, not self-employed. This means they have the right to receive the National Minimum Wage and paid annual leave. This was the first judgment on employment status in the 'gig economy' – where organisations contract with independent workers for short-term engagements. Other judgments will be out this year.

### 5. Holiday pay

The Court of Appeal has ruled that employers must include commission payments in their calculation of holiday pay.

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