



WINTER 2017

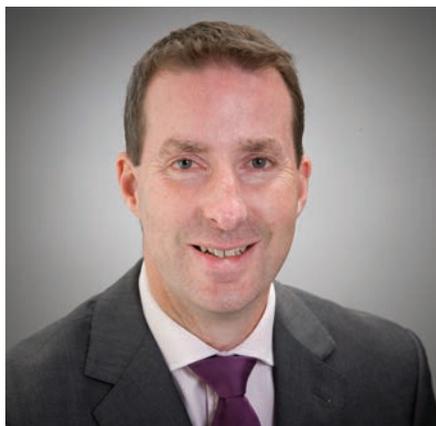
K NEWS

ALL THE LATEST NEWS AND EVENTS FROM KERSEYS SOLICITORS



Introducing our *new* employment law department

Kerseys Solicitors has expanded its services due to demand – setting up an employment law department.



The firm has taken on specialist employment law solicitor **Adrian Green**, who has over 14 years' experience in the field.

Adrian, who has previously worked for several niche employment law firms in East Anglia, will complement the work of Ross Burkitt and the Dispute Resolution Team.

Managing partner Anthony Wooding said: "We are delighted to have Adrian join our team. He has vast experience in employment law – an area where thorough knowledge of ever changing regulations and case precedent is necessary to be a really effective advisor. Clients frequently asked about employment law services and we have expanded to meet demand. As Adrian has successfully acted for employers and employees alike, we believe he will be a great asset."

Adrian, a former Gilberd School and Colchester Sixth Form College student, graduated from Anglia Ruskin University in 1996 with honours.

He spent the early part of his career with EEF (Engineering Employers' Federation), supporting

employers in the manufacturing and engineering sector in the UK, where he gained hands-on experience.

Adrian has helped employees who have claimed unfair dismissal to win pay-outs for tens of thousands of pounds. He has also defended employers from paying out hundreds of thousands of pounds to disgruntled employees.

Adrian is enjoying his new role at Kerseys, where he acts on behalf of employers, executives and employees.

He said: "I enjoy helping employees who feel they have been wronged getting the justice they believe they should have. But I particularly enjoy the variety of work involved in acting for the employer; which is not just limited to disputes. It can include drawing up the employment paperwork, as well as strategy and tactics."

Anthony added: "Adrian has vast experience in his field and keeps on top of all the constant changes in employment law."

Adrian's areas of specialism:

- TUPE (Transfer of Undertakings Protection of Employment Regulations), including the selling/buying process.
- Dealing with claims at employment tribunals
- Managing sickness absence
- Dealing with disciplinary and grievances
- Settlement agreements
- Discrimination
- Drafting Staff Handbooks and setting up policies at work, including for social media, health and safety and whistleblowing.

You can contact Adrian about any employment law matter that you may have on **01473 407121** or at adrian.green@kerseys.co.uk

Father inspires son to enter law

Kerseys solicitor Adrian Green was inspired to go into law after his father was among a group of workers who claimed unfair dismissal against a local shipyard.

Adrian 47, chose his career path after James W Cook shipyard in Wivenhoe laid off its staff 30 years ago.

The married-father-of-four said: "It was a case which set precedents and I saw how powerful knowledge of the law could be."

The case recognised situations where former employees could put in employment tribunal claims even after the three month time limit had run out. In this instance, the workers were led to believe they would be re-employed by the liquidator – when this was never really on the cards. It also confirmed that it was for employers to decide how they ran their own business, including when they could make redundancies.

But Adrian had to wait before embarking on his chosen career. Money was initially tight and he went to university after he had worked for a few years to get funds.

Adrian said: "I couldn't go to university when I was 18 because we didn't have the money after my father was laid off. I worked full-time until the age of 23 and saved up. I had worked in residential property, but knew my interest really lay with employment law."

Adrian added: "I find employment law fascinating and it's a busy area of law. I also enjoy the attention to detail involved – which can sometimes make or break a case."

Adrian spent the early part of his career with EEF (Engineering Employers' Federation) – supporting employers in the manufacturing and engineering sector in the UK.

Adrian, who worked for the 120 year-old organisation for nearly a decade, said: "We acted for everyone, from small companies to large multi-national corporations. It was great hands-on experience."

Are there any legal concerns you would like covered? Let us know and email your suggestions to info@kerseys.co.uk





Setting terms and clarifying payment can save money – plus relationships and reputations

The story of a woman who raised £330,000 for a disabled pensioner who was mugged outside his home warmed the hearts of people across the country.

Katie Cutler, from Gateshead, was dubbed the 'Angel of the North' after she fundraised for Alan Barnes. But the story and relations turned sour over payment. The news was then widely covered by the national press.

The publicist who managed the media campaign billed Miss Cutler £6,687. Miss Cutler is reported to have made two payments, but not the full outstanding amount. The publicist, Claire Barber, then sued Miss Cutler for the unpaid fees and obtained a county court judgment against her. It has been reported that Miss Cutler then applied to challenge the judgment.

One of the issues in the case appears to have been with whom she had the contact. Ms Barber said she agreed a £550 daily fee with Miss Cutler for publicity. Miss Cutler said the fees were to be paid by a 'planned charitable foundation', rather than by her personally, but the foundation 'never took off'. She denied having signed any contract.

Deputy District Judge Nathan Adams said the disputed bill came down to contract law and turned down Miss Cutler's application to challenge the judgment.

The court appears to have found that the contract was between the publicist and Miss Cutler personally and therefore Miss Cutler personally was held liable to pay.

Contracts can be written or oral. The fact that a written contract has not been signed does not necessarily mean that it is not legally binding. If, for example, one party offers a written contract and the parties then act in accordance with its terms, it may be regarded as binding, even if a copy is never signed by the other party.

Disputes may arise in the PR and marketing sectors where firms 'front load.' This means they carry out preliminary work on projects, which may or may not be regarded as chargeable by the clients.

Sometimes clients regard preliminary work as purely speculative and only chargeable if they decide to go ahead and implement proposals made. This case highlights the need for contracts to be put in place, setting out all of the necessary terms and conditions, the scope of work and clarity over the amount and regularity of any payments to be made.

Advance preparation can save time, money and heartache. In fact, it can possibly even help salvage relationships and reputations.

Having the right paperwork in place can help prevent disputes over payment in the first place. It will also serve you well should the matter go to court.



Ross Burkitt,
Solicitor

Becoming a DEMENTIA FRIEND

Kerseys Solicitors has joined a campaign to help 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: "The team at Kerseys is keen to work towards being a dementia friendly business. During the training, we learned a lot, in particular about the 'myths' of dementia. Dementia is not a natural part of aging – it's caused by a disease of the brain. It's not just about losing your memory, it can affect thinking and communicating everyday tasks. On the other hand, it is possible to live well with dementia. Some memories, especially older ones, remain intact and emotional states of happiness often remain as strong as ever. There's more to a person than the dementia they are living with."

The IDAA is chaired by Nicola Bradford of LimeSkills, and is supported by a number of businesses and organisations in the town, including the Mayor of Ipswich, Roger Fern. Anthony added: "We are a business serving the public on a very personal level – dealing with people's private affairs. We sometimes handle work of a difficult and emotional nature. It is important that we understand if our clients' instructions are in any way affected by dementia or if they need to be approached in a certain way to obtain those instructions properly.

We have a department specialising in powers of attorney and Court of Protection work. For this reason, our lawyers are already very sensitive to dementia as they come across it quite often. But there are still things to learn."

Minnie Moll, chief executive at East of England Co-op, said: "Working with other organisations to help the people of Ipswich understand what dementia is and how we can support those people caring for and living with the disease is something we believe in.

"To achieve the goal of a dementia friendly town will benefit so many people so that is why we are happy to be part of the campaign."

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

Mr Fern said: "I am totally committed to do all I can to help Ipswich become a dementia friendly town. People living with dementia still have much to contribute to the community. We really must enable them to do this. It may mean a good deal of patience and goodwill if we are to try and get into their world rather than expect them to get into ours."

If you want to find out more about the Ipswich Dementia Action Alliance and upcoming Dementia Friends training, visit www.dementiaaction.org.uk

For more information on dementia, including information for carers and those living with dementia, visit www.alzheimers.org.uk

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Check your terms before you let on Airbnb

For home owners looking to earn a bit of extra income in 2017 by letting out their home via Airbnb or other online platforms – beware.

This move could be particularly risky if you are a long leaseholder; which means that the original length of your lease must have been at least 21 years. Typically the term will be much longer than that: leases of 999 years are not uncommon.

There have been at least two recent decisions which suggest that such lettings are likely to be a breach of the terms of your lease.

It does not occur to most homeowners there are real differences between owning the freehold of your home – or owning a long leasehold interest. After all, an Englishman's home is his castle, isn't it?

However, unlike most freeholds, a long lease will contain a number of terms, called covenants. The tenant must comply with these covenants to avoid the risk of a landlord bringing proceedings against them. In the worst case scenario, a landlord could apply to forfeit the lease.

Typically, the lease will regulate the use of the flat, such as limiting the premises to be used only as a residential flat for one family. It may also include alienation of the flat, which may involve

prohibiting sub-letting without the landlord's consent. It may also include rules around conduct – for example, not playing loud music at night.

In *Nemcova v Fairfield Rents Ltd (2016) UKUT 303* the court held that a short-term Airbnb style letting breached a covenant not to let premises 'other than as a private residence'

The judge decided that in order for a property to be used as the occupier's private residence, it should be used for more than a weekend or a few nights in the week. Where a person occupied for a matter of days and then left, such occupation was so transient that the occupier would not consider the property to be his private residence, even for the time being.

Freeholders may also be at risk: you may be breaching the terms of your mortgage, since most residential mortgages do not permit holiday lets and then only with the mortgagee's express consent.

Each case is different, of course, as the precise wording of the covenants in leases and mortgages will vary.

The moral of the story is: before signing up with an online platform, it is important to seek legal advice so that you know where you stand.



By guest writer **Amanda Eilledge**, who is a barrister at **Hardwicke Chambers**. Hardwicke specialises in property, commercial, construction and insurance law.

We are pleased to announce that *Kimat Singh* is now *Head* of our Commercial Department



Kimat started as a newly qualified lawyer in 2003 and has worked his way up the ranks in commercial property.

He says: "It's an honour to be given this position, especially as I started with the firm as a newly qualified solicitor just 13 years ago. The department has gone from strength to strength since I started. It's been very much a team effort and we look forward to further expansion."

Kimat was made a partner in the firm 10 years ago. He graduated from Leicester University with a degree in Law and Economics and then completed the Legal Practice Course at the London College of Law.

Kimat, who hopes to offer a more flexible service for clients, said: "Kerseys has been serving its community for over 100 years and we have adapted to suit the times. We offer a service tailored to our clients' needs – rather than an 'off the shelf' approach, which has long been the tradition in the law industry. We are like business partners to our clients. We are prepared to meet

them in person to better understand their business and adapt according to their needs."

The department is looking to take a more modern approach in its provision of legal services, including putting fee structures in place to suit different budgets.

Kimat has taken over the position from James Hayward, who decided to step down into a consultancy role after more than 30 years at the firm.

Kimat said: "James has been a great support and he continues to share his vast knowledge and experience with the team."

Kimat, who speaks Punjabi, Hindi and conversational Urdu, grew up in Ipswich and now lives in Colchester.

He specialises in the acquisitions and sales of commercial property and is consistently recommended for his work in the Legal 500, the law sector's industry bible.

To see Kerseys' latest videos and for advice on various legal matters, visit www.youtube.com/user/KerseysMediaTV



Kerseys hosts *Ipswich Interpretations* art exhibition

A painting on display at Kerseys Solicitors has been sold for £2,500 – a record for the firm's exhibitions.

Jenny George's popular *The Wine Rack* painting (left) featured as part of the Ipswich Interpretations collection.

And the quirky take on the now well-known local landmark was snapped up by a buyer visiting Kerseys in Lloyds Avenue.

Kerseys managing partner and artist Anthony Wooding, who came up with the theme which was then curated by Ian Moss of The Freudian Sheep, has been impressed by Jenny's work.

He said: "It's great that such a talented artist has received the recognition she deserves. Her work is both striking and inspiring."

The painting was also joined by George's illustration of the now defunct Odeon Cinema – portrayed it as if it were in a '1930s heyday'.

Jenny said: "I am thrilled that my painting, *The Wine Rack*, has appealed so much to the buyer. I am extremely grateful for the purchase. To know the buyer appreciates my work so much is wonderful. The process of making art is an extension of myself – it is a vital part of me and so it truly is a blessing to be able to make a living through what I love to do. I am so thankful to Kerseys and the Freudian Sheep for their support and the opportunities they have given me. I am very pleased that the painting will stay within the local area."

The buyer has agreed to leave *The Wine Rack* on display until Jenny has painted a replacement.

Fifteen professional artists in total have displayed their work – showing their impressions of landmarks in the town.

The exhibition includes a range of styles – from the use of 'hot' and 'cold' colours to more conceptual approaches.

It includes art from experienced artist and illustrator Borin Van Loon, Carlos Fernandes, who depicts the changes he's seen in the town since he arrived from Portugal some years ago, and Emma Johnson, who displays her 'dissected maps'.

Experienced photographers Peter Ellis and Tom Owens have produced some views of Ipswich which often go unnoticed.

Curator and artist Ian Moss said: "I am delighted that Jenny's sold her painting. She has the potential to become well-known for her quirky depictions of our region and she's such a humble person. This sale will help her to go from strength to strength. For an artist, it's vital to receive the boost praise can give, and indeed to make sales every so often, just to encourage yet more creativity."

Freudian Sheep artists continue to enjoy a long association with Kerseys and will display 'Ipswich Interpretations' until the summer.

The exhibition will run until 8 June 2017. For more information about the gallery, visit www.freudiansheep.co.uk or www.facebook.com/freudiansheepartists

IPSWICH INTERPRETATIONS

We are delighted to showcase the stunning artwork from our Ipswich Interpretations exhibition, which was held in the Kerseys offices in Ipswich in December.

If you would like to come and view any of the exhibits, or are interested in buying any of the artwork, please do contact **Karen Williams** or our Reception desk, on **01473 213311**.



Example of art by Amy Drayson

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