

## WHAT'S IN THIS EDITION

2

Lasting  
Power of  
Attorney

5

Small Claims  
Changes  
Big News

6

Legal  
Changes for  
Landlords

7

Help to Buy  
ISAs

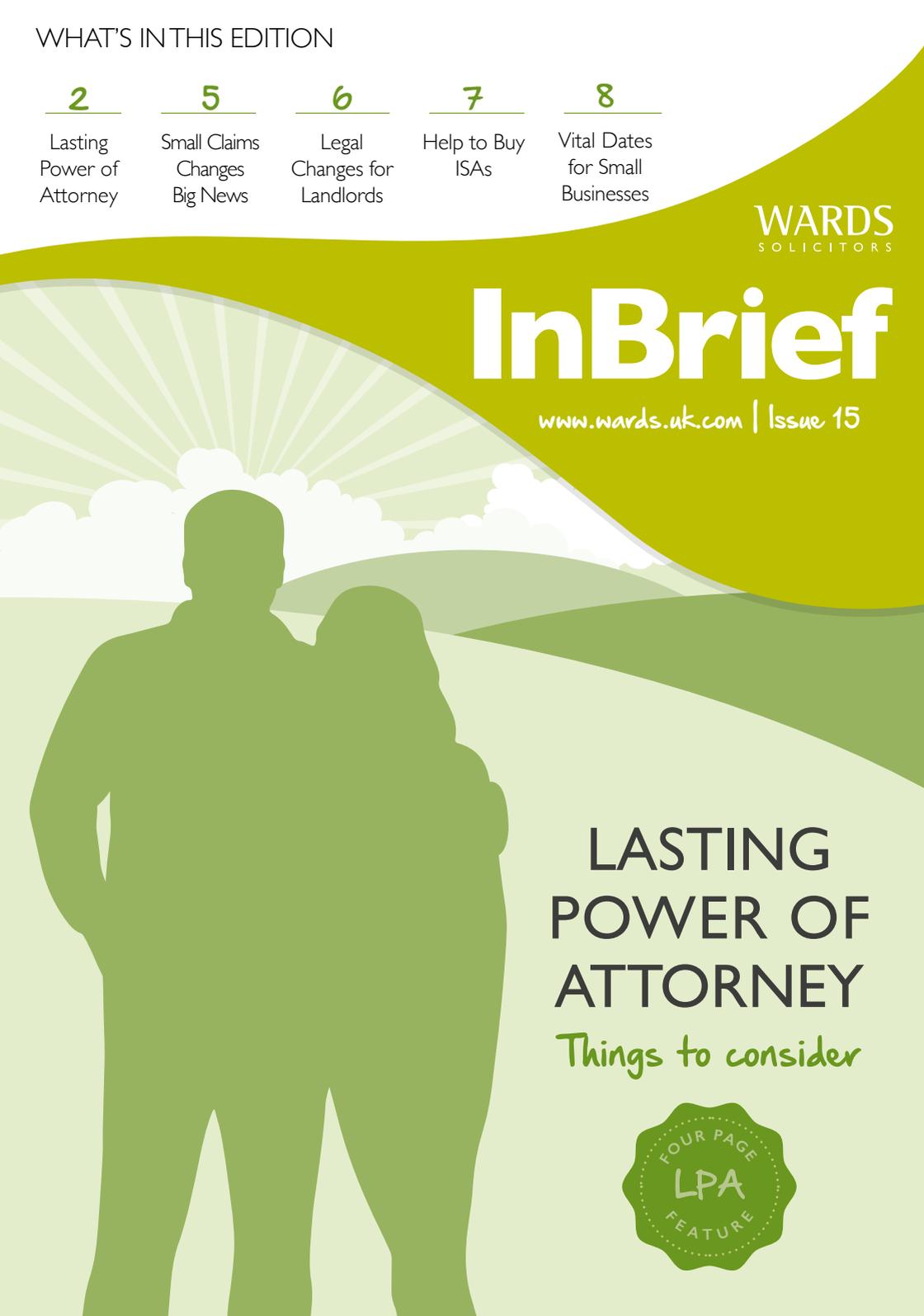
8

Vital Dates  
for Small  
Businesses

WARDS  
SOLICITORS

# InBrief

[www.wards.uk.com](http://www.wards.uk.com) | Issue 15



## LASTING POWER OF ATTORNEY

*Things to consider*





## Legal need to know guides

If you would like more in depth information on any of the subjects covered in our newsletter take a look at our legal guides. You can find them on our website [wards.uk.com](http://wards.uk.com) or contact your local office.

# WARDS

## SOLICITORS

Head Office, 52 Broad Street  
Bristol, BS1 2EP  
0117 929 2811

This newsletter is sent for information purposes only and the contents do not in any way constitute legal advice. Wards Solicitors is authorised and regulated by the Solicitors Regulation Authority under number 57245. Partners of Wards Solicitors are Partners of Wards Solicitors are David Sheridan, Jenny Pierce, Elizabeth Fry, Rebecca Parkman, Gary Hope, Bridget Jukes, Alison Underhill, Mandy McCabe, Susan Ellis, Jonathan Wilson, Paul Hayward, Alison Bradley, Ian Williamson, Heather Jones, Theo Vitagliano, Rebecca Stuart, James Taylor, Tom Scoffham, Helen Boyd and Geoff Goulding.

# LASTING POWER OF ATTORNEY

## What we all need to know...

IT'S SAD BUT TRUE – WITH OUR POPULATION AGEING FAST AND MORE PEOPLE DIAGNOSED WITH DEBILITATING DISEASES LIKE ALZHEIMER'S, AN INCREASING NUMBER OF US WILL NEED TO THINK ABOUT APPOINTING SOMEONE TO OVERSEE OUR AFFAIRS IN THE FUTURE. OR WE MAY BE ASKED TO CARRY OUT THAT ROLE ON BEHALF OF A LOVED ONE.

A Lasting Power of Attorney (LPA) - allows you to nominate a friend or family member to manage your personal and financial affairs in the event you lose the ability to do so - and a record number; almost 400,000 last year, are now being registered annually.

But worryingly, complaints about the conduct of those appointed to act as an LPA are on the up too, the majority instigated by concerned relatives or friends alleging financial abuse.

More so than ever before, it's vital to have the right advice and relevant information to hand.

## THINKING OF MAKING AN LPA?

IT IS CRUCIAL TO CAREFULLY CONSIDER WHO YOU APPOINT – TRUST IS VITAL AS YOU MAY ULTIMATELY BE GIVING THEM THE LEGAL AUTHORITY TO MAKE DECISIONS ON YOUR BEHALF IF YOU LOSE CAPACITY.

There are two types of LPA:

- A Property and Financial Affairs LPA can be used, with your permission, as soon as it is registered. It gives your attorney the power to make decisions about things like selling your home, paying the mortgage and bills and investing money.
- A Health and Welfare LPA can only be used when you are unable to make decisions for yourself. It gives your attorney the power to act on your behalf about things including deciding where you should live, your medical care, your daily routine, who you should have contact with and even your dietary requirements. It can extend to making decisions about life sustaining treatment but only if you wish it to.

Try to avoid problems and possible upset in your wider family by explaining why you have chosen a particular person to be your attorney well in advance of you actually needing them.

It can also be a good idea to arrange, for example, for your attorney to circulate bank statements regularly amongst your family so it is clear to everyone exactly what is going on with your finances.

You may also wish to consider appointing more than one attorney in case one is unable to act for any reason.

Take time to think what instructions and preferences you wish to put in this important document.



### Read more

See our Legal Need to Know guide: [Lasting Powers of Attorney – What are they?](#)

# ASKED TO BE AN ATTORNEY?

## Making sure you get it right

BEING AN ATTORNEY FOR A FAMILY MEMBER OR FRIEND COULD MEAN MAKING DIFFICULT DECISIONS ABOUT THAT PERSON'S FINANCES AND HEALTH AND WELFARE, EITHER ALONE OR WITH OTHER APPOINTED ATTORNEYS. IT CAN BE A LOT TO TAKE ON SO THINK CAREFULLY ABOUT WHETHER YOU ARE WILLING AND ABLE TO DO THIS IF THE NEED ARISES.

If the answer is yes, make sure you are fully aware of your role and responsibilities and what you can and can't do.

Confusion and ignorance are the main reasons attorneys inadvertently make mistakes. So it's important to be up to date:

- Check whenever possible what the person involved (known as the donor) actually wants – it is your legal responsibility to act in

their best interests and take reasonable care when making decisions on their behalf;

- Keep accounts and the donor's money and property separate from your own;
- Be aware of the rules on making 'reasonable' gifts to other people on the donor's behalf – usually restricted to family members on special occasions, for example birthdays and weddings;

- Keep up to date with relevant guidance and any directions from the Court of Protection;

Never take advantage of your position or delegate without permission and always act in good faith and in confidence.

### Read more

See our Legal Need to Know guide: [Lasting Powers of Attorney – The Role of the Attorney](#)

## Out of the blue problems when there is no LPA in place

Sometimes, problems arise unexpectedly – perhaps through the sudden onset of an illness like a stroke or dementia – without enough time for an attorney to be appointed beforehand.

When this happens, a **deputy** can be appointed by the Court

of Protection to be legally responsible for that person. This is usually a friend or family member but can be picked from a special team of professional deputies by the Court if no-one else is willing or able to step in.

### Did you know?

Two members of the Wards Solicitors team have been appointed to this panel of professional deputies.







# LANDLORDS...

## is your tenant legally allowed to live in the UK?

A NEW LAW MAKING IT VITAL FOR LANDLORDS TO CHECK THE PASSPORTS AND VISAS OF NEW TENANTS IS NOW UP AND RUNNING.

"Right to rent" legislation, brought in under the Immigration Act 2014, came into force at the beginning of February with fines of up to £3,000 for landlords who fail to ensure their tenants are entitled to live in the UK.

### What do you need to know?

Firstly, if you are not sure, check that your property falls under the legislation. There are some exceptions including care homes, hospitals, hospices and social housing.

Otherwise, key information to be aware of includes:

- A British passport automatically gives someone a full right to rent;
- Checks only apply to new tenancies;
- You must carry out the check within 28 days of the start of the tenancy.

### What do you need to check?

- That any potential tenant over the age of 18 has the right to be in the UK and rent a property;

- That your property is the tenant's only or main home. This doesn't apply to second homes or holiday lets;
- That they have original documents valid for a "right to rent" check (a full list is available on the Home Office website).

These checks must be done while the tenant is present and relevant pages copied.

It's also very important to look at key dates carefully - if someone has documentation which expires before the end of the tenancy, you need to make sure it's renewed.

And if they have a temporary right to rent which then runs out, you need to make a follow-up check. If you find out they no longer have a right to rent you need to tell the Home Office.

### What are the penalties?

Unless you can show you carried out the necessary checks, you could be fined a civil penalty of up to £3,000 - £1,000 for a first offence - if an illegal immigrant is found living in your property.

People taking in lodgers also have to ensure their tenant has a legal right to live in the UK and can be fined if they don't, although the penalties are smaller - £80 for a first time penalty and up to £500 for further offences.

### If you hit problems...

Many landlords feel this new legislation not only increases their costs but also leaves them open to charges of discrimination.

The Home Office advises that all prospective tenants should be subject to the same paperwork checks regardless of ethnicity or possible immigration status. It also says it will not penalise landlords caught out by an expert forger.

If a prospective tenant doesn't have the right documents but says they've been told by the Home Office they can rent, you can refer to its Landlord's Checking Service. It should get back to you within 48 hours with a straightforward 'yes' or 'no' answer.

# Help to Buy ISA

## how to claim your bonus

FIRST TIME BUYERS WHO HAVE OPENED A HELP TO BUY ISA, SAVING TO CASH IN ON A GOVERNMENT BONUS TO PURCHASE A HOME, WILL SPEED UP THE CLAIM PROCESS BY MAKING SURE THEY USE AN 'ELIGIBLE CONVEYANCER' WHEN THEY FIND THE RIGHT PROPERTY.

Wards Solicitors is a registered member of the scheme and already set up to claim any bonus on behalf of a buyer. What's more, the process will be faster than using a conveyancer who has not signed up.

Although the scheme was only launched last December, it has been incredibly popular, with a growing number of people already poised to take advantage of its benefits.

### How does the scheme work?

First time buyers who use the ISA to save for their first home will be given £50 for every £200 they save. This is the most that can be saved each month.

The first £200 monthly payment can be boosted by an initial deposit of £1,000. The bonus from the Government on the £1,000 will be £250.

The overall maximum amount the Government will contribute is £3,000. Therefore a total of £12,000 needs to be saved in the ISA to receive this.

The bonus can be put towards homes with a purchase value of £250,000 or less. For properties in London this figure rises to £450,000. The property must be bought with a residential not a buy to let mortgage.

### What do you do when you want to claim your bonus?

- Firstly, you will need to close the ISA and provide your conveyancer with a closing statement;
- Allow plenty of time – the process of claiming the bonus is expected to take around 30 days from closing the account so will need to be done before contracts are exchanged;
- Sign a declaration confirming your first time buyer status and that you do not own, or have ever owned, any interest in land anywhere in the world;
- Confirm that the property will be your main or only residence, unless you are a member of the armed forces

The claim for the bonus must be made within 12 months of the ISA being closed. It remains the Government's money until used to complete a property purchase.

If a purchase falls through the bonus must be returned and you will be given a 'Purchase Failure Notice' enabling you to return your savings to the ISA.

The final deadline for claims under the scheme is currently 1 December 2030.

## Get in touch

### Bradley Stoke

6-8 Fountain Court, New Lease  
Woodlands Lane, Bradley Stoke  
Bristol, BS32 4LA  
Tel: 01454 204880

### Bristol

52 Broad Street, Bristol, BS1 2EP  
Tel: 0117 9292811

### Clevedon

1-3 Alexandra Road, Clevedon  
BS21 7QF  
Tel: 01275 850470

### Keynsham

16 High Street, Keynsham  
Bristol, BS31 1DJ  
Tel: 0117 9863504

### Nailsea

First Floor, The Sion,  
Crown Glass Place,  
Nailsea, BS48 1RB  
Tel: 01275 858515

### Portishead

2 Harbour Road, Portishead  
Bristol, BS20 7EL  
Tel: 01275 850460

### Staple Hill

Hynam Court, Eclipse Office Park  
20 High Street, Staple Hill  
Bristol, BS16 5EL  
Tel: 0117 943 4800

### Weston-super-Mare

37 Boulevard, Weston-super-Mare  
BS23 1PE  
Tel: 01934 413535

### Worle

195-197 High Street, Worle  
BS22 6JS  
Tel: 01934 428811

### Yate

19 West Walk, Yate, BS37 4AX  
Tel: 01454 316789

**New Henleaze Office** opening spring 2016. For information and updates visit [wards.uk.com](http://wards.uk.com).

# DATES FOR YOUR DIARY

## Crucial news for small businesses



IT'S GOING TO BE A BUSY, CHALLENGING BUT ULTIMATELY BENEFICIAL YEAR AHEAD FOR SMALL BUSINESSES AS A ROLLING PROGRAMME OF LEGAL CHANGES COME INTO FORCE DURING 2016.

The Small Business Enterprise and Employment Act 2015 received Royal Assent on 26 March 2015. Some reforms have already happened but many are due to be implemented in stages over the coming year.

The Act is wide ranging but one of its key aims is to cut red tape and improve the quality of information on public record to enhance transparency and therefore trust in UK companies.

### What's happening when? Key changes and expected dates to be aware of include:

**April 2016** – A new requirement for companies to create and maintain a public register of Persons with Significant Control, known as a PSC register:

This change is designed to promote transparency by preventing anyone with a beneficial shares interest from 'hiding behind' a nominee shareholder. Significant Control is deemed to be held by anyone,

directly or indirectly, with more than 25% of the shares or voting rights in a company or the right to appoint the majority of the board of directors or otherwise significantly influence or control the company.

**June 2016** – All PSC registers to be filed at Companies House

**June 2016** – The Annual return is replaced by an annual Confirmation Statement ("Check and Confirm"). Every UK company must in every 12 month period confirm that all information held at Companies House (including PSC details) is accurate and up to date. The default period after which a company will no longer be deemed to be in good standing is reduced from 28 days to 14.

**October 2016** – Abolition of corporate directors. Unless an exemption applies, companies will no longer be allowed to appoint new corporate directors and any existing corporate directors will cease to hold the role after a grace period of 12 months. Any further

appointments will be void and liable for a penalty.

### What's already happened? Up and running reforms include:

#### Zero hours contracts –

Employers are now no longer allowed to insert exclusivity clauses in zero hours contracts to try to prevent people from working for a competitor.

#### National minimum wage -

The maximum penalty for underpayment of the minimum wage will be amended in line with the Government's introduction of the National Living Wage this April which increases the wage floor of employees aged 25 and over.

Our article Get Ready for the new Living Wage provides more information. Go to [wards.uk.com](http://wards.uk.com) ForWards blog.