



Sport

Feature p8

Sports sponsors risking reputation damage

PITMANS TIMES

Issue 1. 2010

MONDAY – FRIDAY EDITION

Pitmans' new look wows industry

By Christopher Avery,
Editor-in-Chief

Leading law firm Pitmans has now unveiled a new brand identity to reflect its strategy, values and to underline its position as a market-leading practice.

Retaining the respected Pitmans name, but incorporating a stylish new logo, fresh corporate colours and a new strapline – 'Making It Humanly Possible' – the rebrand captures the values and aspirations of the firm and positions it for continued success.

Christopher Avery, Managing Partner of Pitmans, comments: "A powerful brand identity is a vital visual tool in modern communications and absolutely essential to convey our firm's mission, values and reputation instantly, in a stylish and memorable way.

"The new brand does exactly that, by recognising our ongoing commitment to excellence to our clients, staff and suppliers."

With offices in Reading and the City of London, and over 200 members of staff, Pitmans is already a regional heavyweight. Thirty partners oversee departments covering a wide range of disciplines including: banking and finance, commercial, corporate, crime, debt recovery, defendant insurance, dispute resolution, environment,

A powerful brand identity is a vital visual tool in modern communications

employment, information technology, insolvency and restructuring, intellectual property, matrimonial, media & entertainment, pensions, planning, private tax and family business, real estate, residential development, and sport.

Christopher Avery continues: "The rebranding in conjunction with our strategy has very effectively defined Pitmans' image to better reflect its abilities, strengths and aspirations, whilst providing the springboard from which the firm can embrace further growth."



Pitmans plans ahead for future growth

By Christopher Avery,
Editor-in-Chief

Pitmans has unveiled its new brand identity as part of its ongoing strategy aimed at articulating its values and maximising the firm's future growth by continuing to attract and retain clients.



Pitmans' Anchorage office

Pitmans' position as a leading commercial practice, offering legal and business services to nationally and internationally based clients, is the foundation from which it intends to grow. The firm's dynamic and innovative approach coupled with the delivery of the very best service, advice and representation by its team of top quality lawyers is reflected by the loyalty of its client base. This also places the firm in a solid position to attract new business.

The firm's experience and regard in certain industry sectors has enabled it to build on its core competencies and offer specialised and bespoke advice to leaders in these industries. Sector specialisms include: automotive; finance; hospitality; entertainment, media and sport; real estate; retail; and technology.

In November 2009, Pitmans acquired SK Sport & Entertainment LLP, a successful boutique practice offering a wide range of services to the media and sports industries. This acquisition has offered the firm further opportunities.

Pitmans is a leading member in a group of associated legal firms across Europe. All practice areas are experiencing an increased flow of work involving international legal issues and Pitmans is well placed to supply these services.

Christopher Avery, Managing Partner of Pitmans comments: "Pitmans already has an established reputation for excellence within the markets it operates and will continue its success and grow into new and exciting areas of operation in both the UK and overseas."

NEWS IN BRIEF

World of mouth – the revolution

How social media is transforming the workplace
News p2

Priscilla's progress helped by advice from Pitmans

Entertainment p3

Blood on the high street

Protecting original fashion designs from being copied by rivals
Fashion p3

Defence and security: rule Britannia?

Budget cuts for the armed forces?
Defence p4

No place to run for battered blogger

PCC censures Spectator journalist for blog
Technology p4

A green future for cars?

CO₂ show stopper at Geneva
Motoring p5

Residential site sales highlight two-tier market

Prime locations outperform secondary sites
Property & Home p6

Banking market trends

Banks returning to debt markets
Business p7

Pitmans: key facts

Established over 150 years ago

Approximately 200 staff

20 departments

30 partners

13 International offices

Managing Partner:

Christopher Avery

Visit pitmans.com

World of mouth - the revolution

By Mark Symons & Richard Devall,
Society Reporters

It took 38 years for the radio to reach 50 million users, 13 years for TV, the iPod took 4. Facebook added 100 million users in less than 9 months.

Social media has taken a firm hold on the lives of millions. The distinction between social and business lives is now blurred and may even become non-existent.

Employee misdemeanors on sites such as Twitter and YouTube form common headlines (the teenager sacked for her "my job is boring" comment and the 13 members of cabin crew sacked from Virgin Atlantic for posting derogatory comments).

Companies have adopted policies and technical controls, seeking to prevent

employees from using social media, but this completely overlooks its incredible value. Social media is not a fad – arguably, it is already a critical factor in the success or failure of any business.

Employee conduct can have serious implications for corporate reputation, but there are fantastic opportunities and measurable results for businesses who embrace social media and its power of communication – businesses are made up of people and people talk to people. So use your best asset – your people.

Why not discover who within your business has the social media skills to put you at the forefront of the social media revolution? Why not include social media skills in employee appraisals? Why not integrate these skills into staff training?

It's an old truism that word of mouth is the best form of advertising but social media has transformed the word of mouth into the world of mouth.

It's not a choice whether you do social media; the choice is how well you do it...



Society



By Marian Lynch,
News Reporter

The pre-nuptial conundrum

Recent cases have highlighted the issues surrounding pre-nuptial agreements in the UK. This article takes a brief look at these issues and what we can expect to happen over the coming months and years.

The main case referred to in the newspapers is the ongoing divorce of the heiress Katrin Radmacher and her husband Nicolas Granatino. The wife is German and the husband is French, they signed a pre-nuptial agreement under German law but then divorced in the UK. The husband received an award of £5.6m even though the pre-nuptial agreement said neither party would seek maintenance from the other in the event of a divorce. The wife's family had insisted on the agreement due to her being worth some £100m. The wife appealed to the Court of Appeal who 'overturned' the award to the husband, thus giving weight to the pre-nuptial agreement and the husband has subsequently appealed to the Supreme

Court. We are waiting for that decision.

This is all very interesting for lawyers but it must be understood that pre-nuptial agreements do not however only arise in relationships where there are multiple millions at stake. Many individuals and their families feel such agreements are an important step in preparations for marriage/civil partnership and protection for the future.

Consider also the millions of individuals who embark on second marriages/civil partnerships and want to protect what they retained and sometimes fought for from their first relationship, or to protect assets for the benefit of their existing children. You will note that it is a man challenging a woman in the above mentioned case, therefore pre-conceived notions of these agreements only protecting the wealthy businessman should be thrown out of the window!

It is widely reported that pre-nuptial agreements are still not part of UK law

and are therefore not 'binding'.

Pre-nuptial agreements are however already common and popular in many parts of the world. A consideration in the Radmacher case to date is that by upholding a German pre-nuptial agreement, German law is taking precedence over English Law.

At this point in time, the starting point for the division of matrimonial assets in the UK is that they should be divided equally but the court must also apply various factors, which include for example, a consideration of the length of the marriage, the ages and earning capacities of the parties, whether there are any children and the contributions of the parties. It is therefore appropriate for the court to take into account any pre-nuptial agreements that have been entered into properly by the parties even though they are not 'binding' in the UK. It is worth noting that it is more likely than not that weight will be given to the

agreement if it is fair to do so.

The lack of law in this area in the UK has inevitably led to extensive and expensive litigation for parties trying to protect or disregard an agreement they entered into prior to marriage. The uncertainty must not continue but as the court can only apply the law it is up to the government to act to address the legality of such agreements. By passing a law to make pre-nuptial agreements legal it will bring them into the homes of many more couples that would have ruled them out previously. It is always important to receive legal advice before entering into any such agreement. In the meantime, the public interest in the big cases like Radmacher will undoubtedly keep the issues alive in the press and we shall all be waiting with baited breath for the changes that time will bring to this interesting area of law...

Red Balloon

By Sue O'Brien,
Legal Editor

Conceived as a way of helping bullied children continue their education, Red Balloon Learner Centres was founded in 1996 by educational consultant Dr Carrie

Herbert. Noticing that bullied children were absenting themselves from school and receiving no formal education, Carrie established the charity not only to teach children but to improve their self-confidence and, where possible, allow them to re-enter mainstream schools.

With 11 centres in the UK and Ireland, the charity is effectively changing lives and building better futures for children who are unable to attend a conventional

school, providing a safe environment with clear boundaries for behaviour and individually-tailored academic, pastoral and therapeutic programmes.

Pitmans is proud to assist Red Balloon Learner Centres with its new Reading centre, undertaking property legal work for the charity on a pro bono basis, as it strives to help children from the area reach their true potential.



Entertainment

Priscilla's progress helped by advice from Pitmans

Priscilla Queen of the Desert

PALACE THEATRE

By **Jeremy Summers,**
Entertainment &
Showbiz Editor

Hit musical *Priscilla Queen of the Desert* is to continue its success and expand internationally with help from the entertainment law department at Pitmans.

A year on from its West End opening, and having recently won the What's On Stage Best New Musical Award 2010, the show is to debut in Toronto in October of this year, with a Broadway opening scheduled for 2011. It was also awarded Best Costume Design at the 2010 Olivier Awards.

Pitmans has provided legal advice to the production since its creation in 2005. After opening in Sydney in 2006, the musical moved to Melbourne and toured New Zealand before opening in London in March 2009.

Jeremy Summers of Pitmans comments: "The work we've undertaken for *Priscilla* has had a distinctly international feel, with Pitmans negotiating and drafting legal agreements on behalf of the production, as well as providing strategic advice.

"It has been fantastic to see first hand



Palace Theatre

the well-deserved success that *Priscilla* has had and we are all sure the opening in Toronto and New York will cement the production's position as a favourite of musical-goers around the world."

Pitmans media & entertainment department was formed in November 2009 by a merger with SK Sports & Entertainment. In addition to its work with productions such as *Priscilla Queen of the Desert* the department acts on behalf of a wide range of music acts and promoters.

Work has recently been undertaken advising musician Steve Mason, formerly of cult indie group The Beta Band, on his latest publishing and recording deal with Domino Records.

One other aspect of the department's work is the protection of brands within music. The department recently assisted Gee Moore, the founder of the global nightclub brand Bora Bora, in his successful fight against an infringement of the brand. Other acts that have been represented include The Ting Tings and Taio Cruz.

Jeremy Summers adds: "Advising music and entertainment acts on their branding rights is an area that has seen significant growth in recent years, and we anticipate further increases in this type of business as stars and promoters continue to learn the true value of their names and brands."

Comment

Pitmans Times



By **Christopher Avery,**
Editor-in-Chief

Welcome to the first edition of Pitmans Times. It gives an insight into our practice areas, current issues and what we can all expect to see in the short term; I am sure you will find it both informative and entertaining.

Pitmans has just undergone an exciting rebranding, one that promises not only to encapsulate the energetic and innovative value of the firm, but also to build on the excellent reputation we enjoy. It will also support our growth plans and enable us to continue to provide the very best levels of service, advice and representation.

However, there appears to be signs of a decidedly more optimistic sentiment in the markets in which we operate. We plan to continue to assist and promote our clients in all industry sectors, to enable all to take advantage of the

business opportunities now presenting themselves, whilst also attracting new clients to share in our vision of success for all.

I would also like to take this opportunity to say thank you to my colleagues who have contributed to the newspaper. The articles they have written and the understanding they provide truly show the wealth and diversity of talent at Pitmans' disposal. I very much hope you enjoy reading Pitmans Times as much as we all enjoyed writing it.

Contact

Christopher Avery
Tel: 0118 957 0248

Email: cavery@pitmans.com
www.pitmans.com

Fashion

Blood on the high street

By **Sarah Hadland,**
Fashion Editor

Retailers are increasingly taking legal action against each other to protect their investment in leading high street fashion.

The introduction in 2002 of the Community Design Right, a Europe-wide regulation aimed at protecting original designs from being copied, has revolutionised the ability of designers to take action against those that copy their work, resulting in high-profile cases such as *Next v Tesco*.

Next Retail Limited, represented by Pitmans, issued proceedings in London's High Court against Tesco for copyright and design right infringement, alleging that Tesco had copied seven of its designs for children, including footwear, T-shirts and knitwear.

Prior to the Community Design Right, designers had to rely on a mixture of copyright, which only addresses surface decoration such as embroidery, and UK Design Right which only considers the shape of an object.

Such an approach left much room for



argument as to whether something like the pattern of small holes in shoe leather would fall within copyright or design right, or whether a pattern dyed into the fabric of a garment could attract copyright. As a result, most product designs had to be broken down into separate parts, making it very difficult for designers to bring a successful claim.

The introduction of the Community Design Right has changed all this. By taking into account all aspects of a garment, including its shape, fabric, texture and decoration, the Community Design Right has given designers much

more coherent claims against those that infringe their rights.

By making it easier to bring claims, the Community Design Right has led to legal action becoming more common between high street retailers looking to protect their designs. This is of particular importance to retailers such as Next Retail Limited that make a huge investment in in-house designers that often set trends on the high street; the Community Design Right has enabled these retailers to protect themselves against those trying to gain a cheap advantage through copying.

What the legal sector needs from the new Government

By **David Archer,**
Comment Editor

Access to criminal and civil justice is a cornerstone of the modern state and more measures should be implemented to ensure quality legal representation for the most disadvantaged members of society. But, given that constraints on government spending make this an unpopular priority, what could the new Government – regardless of political denomination – do to benefit the legal sector?

By far and away the most effective course would be for no new laws to be passed. That's right – none. There's not even a need for amending or clarifying legislation. To give one small example, section 67 of the Pensions Act 2004 is 3,000 words long, replacing the 1995 equivalent section of 300 words. The new section was introduced in order to simplify the relevant law, but has done quite the opposite.

But is this realistic? Frankly, no, for two reasons: firstly due to much of our law being the enacting of European directives; and secondly because our parliamentarians need to find ways of occupying themselves. Incidentally, this is not a novel suggestion – the all-party Public Administration Select Committee complained last summer of excessive legislative initiatives causing inefficient government.

Nobody at Pitmans will complain about being handed more work, but at our core we work to ensure we have happy and successful clients. If any of the main parties were to announce a suspension of new laws, I suspect they would enjoy a landslide victory. At the very least, it would allow time for everyone to catch up with the record high number of new laws that have been enacted by the previous Government.

Feature

“The defence sector knows it is vulnerable to cuts”



Defence

Defence and security: rule Britannia?

By Andrew Peddie,
Defence Correspondent

Post-election, we now wait, exhausted by the excitement of the political battle, for perhaps the real fight to start: the outcome of departmental spending reviews by the new administration and of an emergency budget. The defence sector (the armed forces and MoD, but also the wider defence and security business community) knows that it is vulnerable to cuts, as part of the need to bring Britain's unprecedented deficit under control. To avoid very deep reductions in spending, the defence and security sector will need to win the argument that it should be seen in its proper context, in terms of its strategic importance to the UK.

It is obvious that the defence establishment has been stretched uncomfortably by the military commitments of the last 12 years. With conflicts from the Balkans, Iraq and Afghanistan, and the threat of international and home-grown terrorism, there has been little opportunity for a slow-down in defence and security

spending despite the post-Cold War climate. We seem to be committed to the Trident nuclear deterrent and the two new Royal Navy aircraft carriers in the pipeline, which alone account for a significant proportion of planned defence spending in the mid to long term. Across all areas of defence activity the growing technological demands of modern warfare and security impose requirements for the procurement of increasingly complex and expensive equipment.

Meanwhile, from the geopolitical perspective, there is a real likelihood of a changed global balance as one of the longer term consequences of this recession. While the European economies and the USA have stumbled significantly as a result of the boom leading to the banking crisis and subsequent deep slowdown, China, India and a number of the other “new economies” have continued to grow strongly. There will inevitably be increasing pressure for those countries to play a greater role in the major world forums such as the UN Security Council.

Defence contractors in the Thames Valley and elsewhere in the South East contribute significantly to the UK's

defence and security capabilities, and the economy generally. Recent defence strategy studies have identified that the UK's capability to deal with potential threats over coming years will depend not only on new technological solutions, but also on training. For the UK to maintain any real strategic or tactical advantage over unpredictable threats, those dealing with conflicts or security threats will need to be agile and responsive to the changing defence and security environment. In both technology and training, defence sector businesses in the South East could be expected to take up that challenge.

But we know that so much of the defence industry's revenue is directly or indirectly dependent on UK government spending. Faced with obvious economic pressures, and the threats to its strategic position from these global changes, there are going to be some really difficult choices for the UK in the coming spending discussions. It is not only the defence and security industry in the South East who will be hoping that the right decisions are made.

Legal

Businesses make cash the absolute priority

By Sue O'Brien,
Legal Editor

Long-term relationships are increasingly being sacrificed by companies looking to secure payments owed as cashflow becomes an absolute priority while money remains tight.

Whereas better economic times saw firms more willing to work with their customers to ensure an uninterrupted supply chain and retain their business on future orders, the emphasis on cashflow has seen a number of businesses abandon this relationship and resort to legal action

to collect payments that are owed.

While jeopardising future orders from the customer, an immediate financial imperative has made firms look again at their business relationships and see if the value they get outweighs the costs involved with maintaining credit lines. In many cases the conclusion has been that it doesn't, resulting in legal action to resolve the disputes.

The willingness to risk losing long term relationships is just one area that has led to a significant rise in legal action as companies look to conserve their cash. There has also been a marked rise in contract disputes and specifically

people seeking loopholes to extricate themselves from agreements.

This is particularly visible with regard to land purchases, where the asset now often has a value lower than the agreed price. Some purchasers are looking to use any reason possible to resile from the contracts they have signed and avoid making an instant loss.

Whereas in better times elements such as minor misrepresentations or breaches of contractual terms would have been overlooked, the nature of the economic situation we find ourselves in means these factors have taken on sometimes crucial importance.

Technology

No place to run for battered blogger

By Andrew Priest,
Technology Correspondent

A blogger on the website of The Spectator has become the first person to be censured by the Press Complaints Commission.

In a significant ruling the PCC has said that a journalist's blog, appearing on www.spectator.co.uk, must meet the same standards of accuracy as if published in the print edition. Many newspapers and magazines use blogs on their websites to allow journalists to give opinions on topical issues, but these are often written in a more relaxed and informal style than in the printed publication.

The battered blogger said that “a blog is different because it has to be a

conversation, otherwise there is no point in having a blog.” The PCC ruled that, despite the blog featuring a comments section, where several readers had taken issue with the blog's comments, The Spectator couldn't “rely on publishing critical reaction as a way of abrogating its responsibilities under the code.”

The point to take away from the PCC ruling though is that publications must now think carefully about what is being said online by their bloggers to ensure that it is accurate, not misleading and does not distort information.

With the PCC angling to catch other bloggers and chip away at freedom of expression, it remains to be seen whether this type of blogging will flounder or continue to flourish.



World News

InterAct Europe: A comprehensive service

By Jackie Tang,
News Reporter

InterAct Europe is a network of independent legal practices, whose members act for clients with cross-border interests, located in major commercial cities in Europe. The network's aim is to extend the services available to clients, while enhancing knowledge and expertise in all aspects of national and European law.

Pitmans founded InterAct Europe in 1990, at a time when it realised that creating a European-wide association was essential to obtain reliable legal advice for clients. The group currently has members in the following countries: Belgium, Cyprus, Denmark, France, Italy, The Netherlands, Slovenia, Switzerland, Germany, Portugal and, within the UK, England, Scotland and Northern Ireland.

While the membership is increasing, there is a fundamental intention to retain, as an important asset of the group, the

close working relationship and personal regard which exists between the members. The aim is to have a member in major commercial centres in Europe, USA and within the emerging markets. Potential new members are invited to contact Jackie Tang at Pitmans.

Christopher Avery, Managing Partner of Pitmans, comments: “What InterAct allows us to do is guarantee our clients the very best legal advice throughout Europe, while assisting other members' clients where appropriate.

The benefits are very clear, not only for clients of all the member firms, but also for the working knowledge and expertise of the firms themselves. The respect for each firm within the group is paramount and this, allied to superb levels of advice and representation, has made InterAct an outstanding success for the past 20 years.”

Personal Finance

Sex sells pensions law

By David Hosford,
Pensions Editor

17th May marks the 20th anniversary of the European Court's landmark ruling in *Barber v Guardian Royal Exchange*, which banned schemes from having different retirement ages for males and females. Until effective amendments were made to schemes, the equal treatment principle required both sexes to receive their full pension at the most favourable (i.e. earliest) retirement age. Taking no effective action caused the pension liabilities to increase - providing a full pension at 60 costs more than at 65.

The ramifications of this case continue

to worry trustees and employers, and keep their professional advisers busy. There have been many Court cases. Six further European Court decisions in 1994 clarified how *Barber* should be applied, and the principle of equal treatment was extended to part timers (for whom provision of worse benefits than full timers could amount to sex discrimination if the part timers were predominantly one sex). More indirectly, the Courts have considered: whether schemes were amended validly to equalise at 65 (the usual response); what constitutes the valid exercise of an amendment power; whether announcements or booklets issued to members can be binding; whether technical gaps in the amendment process

can be corrected retrospectively; and whether past advice was negligent. Other issues include how benefits accrued post-*Barber* should rank in the priority order when winding up pension schemes, whether guaranteed minimum pension accrued from contracting out of SERPS must also be equalised (and if so how), and how benefits should be adjusted.

The need for legal advice regarding sex discrimination remains today – is it a key due diligence issue when buying a company, and before the Pension Protection Fund and Financial Assistance Scheme take over a scheme? It continues to be a strong source of work for pension lawyers – yes, sex even sells pensions law!

Damp squib or more ominous implications?

By Michael Jepson,
Tax Reporter

While the pre-election budget of March 24th was generally accepted to have given no real indication of what the tax regime may be like over the course of the next parliament, there are undoubtedly challenges to be faced and lessons that can be learned from this. What is without doubt is that the new Government has some major decisions to make.

There were indications in the March budget that HMRC will tighten tax avoidance schemes, particularly with regards to those that may be used to convert income into capital gains. Also, an increase in capital gains tax from 18% to 25%, not only to increase

revenue but also to reduce the gap between this and the top rate of income tax, is entirely possible.

This has led to a number of people with a pending or possible future sale of business or assets to consider accelerating the process to freeze the liability at 18%, or where entrepreneurs rate relief applies, 10%. This often involves arrangements which carry with them the ability to unscramble the sale or at least to hold over the gain, if necessary, if in fact capital gains tax rates do not rise.

The increase in entrepreneurs relief of £1 million to £2 million in the pre-election budget is welcome, but there is room to extend this relief by broadening the narrow range of persons who qualify. Such a move would encourage investors to put money into new ventures, even

where they do not want or do not need to get involved in the management, keeping the effective tax rate at 10% even if the normal capital gains tax rate increases.

In truth, there is no real guide from the pre-election budget as to the shape of the future tax regime. What is undeniable is that, with a lack of election disincentive to increase taxes or limit tax reliefs, the work to start raising revenue and reducing expenditure will start as soon as deemed economically prudent.

The lesson to be learned therefore is to no longer postpone tax planning and consider action on potential proposals and arrangements. To assume that tax rates remain broadly the same as prior to the election would be unwise indeed.

Lawyer's diary

Date 2010	Event	Location	Time
Wednesday 19 th May	TMA Seminar (Turnaround Management Association) Speakers: Grant Thornton Topics: •The challenges to achieving a consensual corporate restructuring involving a defined benefit pension scheme •Tax issues, pitfalls and managing the HMRC	Pitmans. 4th Floor, The Anchorage 34 Bridge Street Reading RG1 2LU	from 6.00pm
Tuesday 13 th July	STIR Event	Carluccios, The Forbury, Reading RG1 3EY	from 5.30pm
Wednesday 15 th Sept	Wake Up To Pitmans Sue O'Brien - Reform of the Law on Bribery	Pitmans. 4th Floor, The Anchorage, 34 Bridge Street, Reading RG1 2LU	8.00am – Breakfast Seminar
Wednesday 6 th Oct	TMA Seminar (Turnaround Management Association)	Reading	from 6.00pm
Tuesday 12 th Oct	Wake Up To Pitmans IT Contracts Andrew Priest and Tim Clark	Pitmans. 4th Floor, The Anchorage, 34 Bridge Street, Reading RG1 2LU	8.00am – Breakfast Seminar
Tuesday 16 th Nov	Wake Up To Pitmans Jeremy Summers - Trade marks	Pitmans. 4th Floor, The Anchorage, 34 Bridge Street, Reading RG1 2LU	8.00am – Breakfast Seminar
Thursday 18 th Nov	Thames Valley Business Magazine Awards	Royal Berkshire Conference Centre, Madejski Stadium, Reading, RG2 0FL	from 6.30pm

Event info: Lucinda Dunkley. Tel. 0118 957 0277; E: ldunkley@pitmans.com

The Jackson Review

By Ferhat Choudri,
Insurance Reporter

Published in January 2010, the Jackson Review of litigation costs has answered some questions but also raised some new ones.

Initially, the solutions of the new costs regime promoted by the review are not entirely obvious and it remains to be seen how the recommendations will be implemented. Once this, and further consultation has taken place, the key will be to establish the best protocol for handling claims in the most efficient and commercial way, a process that Pitmans is ideally-placed to assist with.

An evergreen concern is the cost of litigation, especially with regards to the

claimant's solicitors who can be entitled to a success fee of 100% on top of their base costs. Rates of £400 per hour are not uncommon in public liability cases or cases that proceed to trial, but the Jackson Review does not seek to redress these concerns, which many view as a missed opportunity.

One area that the new Government could have a profound and beneficial effect would be to give the defendant the right to have their costs revisited and also to be entitled to charge a 100% success fee or similar in the event of winning at trial. This would give the claimant a higher potential burden if they wished to pursue the claim and remove the majority of frivolous and optimistic claims from the legal system.

Motoring

A green future for cars?

By Adam Dowdney,
Motoring Correspondent

Green automotive technology has been identified as a critical growth industry, with hundreds of millions of pounds of taxpayer-funded loans going to be made to Ford and Nissan to develop low-carbon vehicles. The funds will also assist Nissan in bringing its available all-electric Leaf hatchback to the market.

At the same time, the Energy Technologies Institute is launching research projects totalling £4.5 million

focusing on all aspects of the future of electric vehicles (including the economic and environmental benefits of "plug-in" vehicles), while researchers from Bath and Bristol Universities are working to discover if carbon dioxide extracted from the air by porous materials could be turned into car fuel.

The SMMT New Car CO₂ report stated that the average CO₂ emissions for new cars fell by their biggest ever margin last year, which is largely accounted for by the impact of the recession and the Scrappage Incentive Scheme boosting the continued influence of technological

advances made by vehicle manufacturers.

The show stopper at this year's Geneva Show was the Porsche 918 Spyder Concept. With the 3.4 litre V8 motor from Porsche's RS Spyder racing car, this plug-in hybrid car with lithium batteries is capable of 0-62mph in 3.2 seconds and a top speed of 200mph. Hopefully it is only a question of time before this highly innovative concept is turned into reality!

The future is exciting for the automotive industry as it pushes the boundaries of design and presents new, greener and more powerful engines and continues to embrace alternative fuels.



Property & Home | Environment

Property & Home

Residential site sales highlight two-tier market

By Andrew Davies,
Property Editor

Recent sales of residential property development sites in the South East have exposed what has become a two-tier market, with prime locations leading the way while secondary sites continue to struggle.

The financial crisis and subsequent recession impacted on residential development site prices even more than on house prices themselves, with a lack of debt, demand, confidence in the market and finance available for actual construction all conspiring to reduce land values by anything up to 50%.

But while the market overall has shown signs of recovery, mirroring the wider housing market where prices have risen from their lows, there is significant disparity between prime and secondary sites.

Andrew Davies, Partner at Pitmans, comments: "The difference between

development sites in prime locations, where developers would be able to demand a premium for any homes built, and more secondary locations is very significant indeed.

"It reflects not only housebuilders' aims of targeting higher-margin developments, but also highlights the banks' ongoing aversion to risk and desire to lend only on assets of the highest quality.

"Egham in Surrey is a good example of the current market. There are sites within this affluent commuter town that have increased in value by around 50% from their April 2008 lows, although these often now incorporate planning permission where none was in place before."

Andrew Davies continues: "It is hard to imagine development sites in secondary locations having appreciated in value by anything like that much. Indeed, while values on these sites have stabilised, the growth they have seen is anaemic at best and is likely to stay that way for some time."



60 second interview

By David Murray
Managing Editor & Publisher
The Business Magazine

What does the Thames Valley offer businesses?

American IT firms were drawn to the area in the mid 1990s by its communication links, well-educated population and the availability of suitable accommodation and these remain key factors today.

How has the region bounced back from recession?

There is no doubt that the Thames Valley has felt its fair share of pain and the recovery remains very fragile indeed. That said, there are reasons for optimism, such as with the IT sector, which has fared much better compared to the dotcom bust in the early 2000s. There also continues to be new start-up companies spun-off from the nearby universities and the ideas generated there will help the region to recover.

What challenges does the region still face?

The public transport network and road systems are in need of investment and these could prove to be a real brake on recovery if they are not dealt with.

And are there opportunities available?

Certainly. There are a lot of good people currently on the jobs market and they are bound to be snapped up as firms recover and regain confidence. The region will also attract talented individuals who have lost their jobs in London and are looking for something new.

So long-term prospects for the region are good?

Absolutely. Natural advantages such as location and an educated population are perennially attractive to firms and the region will undoubtedly bounce back.

www.businessmag.co.uk

Environment

Asbestos remains as the hidden killer

By Sue Crowther,
Environment Correspondent

Despite its prohibition in 1999, asbestos remains a shockingly hidden killer and is responsible for an estimated 4,000 deaths each year in the UK.

Used extensively in the building industry prior to 2000, asbestos materials intact and in good condition are safe, but if in poor condition or damaged, asbestos fibres become airborne and when inhaled, can cause lung diseases including cancers.

The Health and Safety Executive's recent guidance – Asbestos: The Survey Guide (2010) – provides a much-needed, comprehensive guide for people conducting asbestos surveys and for those responsible for managing asbestos in non-domestic premises.

The duty, under the Control of Asbestos Regulations 2006, is on owners and occupiers of non-domestic premises, who have maintenance and repair

responsibilities, to assess and manage the risks from the presence of asbestos. The risk assessment forms the basis of a management plan that sets out the actions to manage and reduce the risks from asbestos.

Two different surveys are outlined in the guidance: management surveys (formerly known as Type 1 and 2) and refurbishment and demolition surveys (formerly Type 3). The guidance strongly recommends the use of accredited or certified surveyors; survey restrictions and caveats should be kept to a minimum and fully justified; and inaccessible or uninspectable areas should be presumed to contain asbestos unless there is strong evidence to the contrary.

Non-compliance constitutes a "crime" and the saved costs represent "proceeds of crime". Ignorance of its statutory duty does not exempt a party and/or its solicitor from their duties (and potential criminal liability) under the Proceeds of Crime Act 2002.

An Englishman's home is his castle...

By Sue Crowther,
Planning Correspondent

At least that is what Mr Fidler thought, until the planning enforcement team at Reigate and Banstead Borough Council swung into action. One public inquiry and High Court case later, farmer Robert Fidler was ordered to demolish his mock Tudor-style castle – ramparts, cannons and all. His efforts to prove four years' lawful use of the building were stymied when the Court found that building operations had not been substantially completed until the 40ft stack of straw bales, which he had erected around the building in order to hide its construction, had been removed.

Alan Beesley and his wife were luckier. They were granted planning permission for a hay barn for agricultural use only, but instead, built a three bedroom house with gym (although externally it looked like a barn). Their case went to the Court

of Appeal. However, unlike Mr Fidler, they were successfully able to show four years' use of the building as a dwelling and the Court of Appeal found that they had acted within the law on the basis that the building was immune from enforcement action.

But you do not have to deliberately flout the law to breach planning control. Sir Cliff Richard only discovered he needed planning permission for his conservatory when he came to sell his Surrey mansion. The conservatory breached Runnymede Borough Council's Green Belt policy as it exceeded 30% of the original floor space. Having failed to win retrospective planning permission for the conservatory, the singer was ordered to demolish the £30,000 building. He then went on to lose his appeal.

The lesson to be learnt is to check with the local authority before carrying out any works, that is, unless you are prepared to sacrifice a substantial amount of money (not least, your home) by taking on the planning regime.

Horoscopes

Aries – March 21 – April 20
A moon of fortune sets the pace for recovery but double check all the details. You are practical and good at financial matters but taking advice from a friend will boost your confidence. For a fuller reading of your chart contact Suzanne Brooker, e: sbrooker@pitmans.com

Taurus – April 21 – May 21
Your feelings and instincts always serve you well. Venus and Mercury give you good insight. Your home gives you strength and a handsome stranger can help you find your dream property. For a fuller reading of your chart contact Andrew Davies, e: adavies@pitmans.com

Gemini – May 22 – June 21
You have two sides to your personality; a full moon gives you added charisma, conversation and innovation skills. A friend will give you rewarding insights into your future. For a fuller reading of your chart contact David Archer, e: darcher@pitmans.com

Cancer – June 22 – July 23
For ages you have been searching for new ways and ideas to deal with complex arrangements at work and at home. Seize on technology rather than mystical powers to find the answers to your needs. For a fuller reading of your chart contact Philip Weaver, e: pweaver@pitmans.com

Leo – July 24 – Aug 23
Practical Saturn gives you your attention to detail and creative skills. Do not get fooled by a false friend. Imitation is not the best form of flattery. Indeed it is bad for your business efforts and fortunes. Consult a friend if you feel you are being copied. For a fuller reading of your chart contact Sarah Hadland, e: shadland@pitmans.com

Virgo – Aug 24 – Sept 23
You can be picky and you expect perfection from yourself and others around you. Your environment matters deeply to you. If your space is polluted you cannot fulfil your huge potential. It is time to clean up your act. For a fuller reading of your chart contact Sue Crowther, e: scrowther@pitmans.com

Libra – Sept 24 – Oct 23
You rise to challenges, act on instinct and have superb leadership skills. The planet Mars brings a need for complete change and refresh to existing practices and identity. Move forward but do not throw away the best of the old. For a fuller reading of your chart contact Christopher Avery, e: cavery@pitmans.com

Scorpio – Oct 24 – Nov 22
You are passionate, emotional and are not to be crossed. The planet Pluto highlights the need for you to have a back-up plan in your work arrangements to ensure disaster never strikes your significant ambitions. Turn to someone who will advise you wisely. For a fuller reading of your chart contact Ferhat Choudri, e: fchoudri@pitmans.com

Business



Banking market trends

By Patrick Long & Jim Meehan,
Finance Reporters

Conditions in the credit markets, whilst still difficult show some signs of improvement. A return to relationship banking and an emphasis on risk management, as well as a better understanding of what the risks are, have seen the dipping of toes back into the credit markets as banks look to generate returns after a period of consolidation.

Patrick Long, Partner at Pitmans, comments: "There is no doubt that banks are increasingly entering the credit market, albeit for non-distressed assets and with an emphasis on relationship lending, which is certainly helping activity across all business sectors."

"That said, businesses are still looking to de-risk and avoid taking on debt as far as possible, creating the interesting potential situation of over-supply of credit, especially at the least risky end of the market."

The pragmatism shown by banks and their willingness to work with businesses who are facing difficulties on restructuring and workout scenarios to avoid administration if at all possible, coupled with the fact that expected problems have not as yet materialised to the extent originally feared, has helped banks as they look to increase their lending books.

Cashflow lending has been significantly restricted to date, but asset based lending is looked on more favourably by senior debt providers. Invoice discounting in general is becoming a preferred route and is indeed replacing working capital in many instances.

Pitmans sees rise in Thames Valley corporate activity following 'pause for breath'

Corporate

By John Hutchinson,
Business Editor

Corporate activity in the Thames Valley is set to recover in 2010, continuing into 2011, following the 'pause for breath' in 2009 as firms took into account the full implications of the financial crises and ensuing recession.

While economic conditions will remain difficult for some time, placing a brake on the rate of growth and the level of merger and acquisition activity, the relative opening up of the credit markets and the continued strength of the region will see a return to more normal levels of deal flow over the next 12 months.

"It is tough, but by no means paralysis," comments John Hutchinson, Partner at Pitmans. "After the meltdown in late 2008, a lot of corporate activity was put on hold as people were simply unsure as to what the future might hold and the finance simply wasn't there to enable the deals to take place."

"Firms were more than happy to take a pause for breath as they assessed the situation and looked at how things were going to pan out. Despite there still being some unease about what economic conditions lay ahead and what the new Government will be forced into doing, firms are more confident about the future and this impacts on the number of deals taking place."

One element that is likely to help mid market mergers and acquisition activity is the announcement in the budget that the tax relief threshold on entrepreneurs selling businesses has been doubled from £1 million to £2 million.

John Hutchinson continues: "This move was a surprisingly welcome offshoot of the budget, but will be a welcome boost for sales and acquisitions over the near future."

There is also the prospect of insolvency-driven transactions particularly if expected future interest rate rises are hard for businesses to accommodate. Interest rates will inevitably rise from their historically low levels and this could be the trigger for some businesses to struggle.

"Despite the wider economic problems, the Thames Valley remains an excellent place to do business and the stronger companies will look for acquisitions to take advantage of the opportunities that the uncertain environment will present."

"The return of the credit markets and the uptick (not universal) in banks' appetite for lending will mean that the finance is more likely to be available to support these transactions and will help provide the foundation for a healthy mergers and acquisitions market over the coming year."

New insolvency provisions implemented

The provisions governing the conduct of insolvency proceedings saw a number of changes on 6th April 2010 as new legislation came into effect.

By Suzanne Brooker,
Companies & Markets Editor

The changes, implemented as part of the Legislative Reform (Insolvency) (Miscellaneous) Provisions Order 2010 and the Insolvency (Amendment Rules) 2010, have been designed to modernise and streamline insolvency procedures and bring them in line with the Civil Procedure Rules.

The remit of the amendments is a wide one and they cover many areas, with the aim of simplifying the process to encourage speedier resolution of issues. For example, electronic communication with creditors is now permitted, as is

the remote attendance of creditors, with reporting rather than holding of certain meetings.

Allied to this are new rules allowing the recovery of pre-appointment costs in administration, the simplification of the disclaimer procedure and the introduction of a fixed-fee basis of charging, all of which should have an impact on the swiftness and efficiency with which insolvency proceedings can be resolved.

That said, as with all amendments along these lines, the devil is in the detail. As a result of this, draft rules are anticipated and consequential changes to certain statements of insolvency practice (SIPS) are required. An interim SIP No. 9 has already been issued.

Housebuilder JVs an indicator of recovery

By Janice Wall,
City Editor

The market for joint ventures in the housebuilding industry is returning after a prolonged quiet period, with Pitmans alone advising on three deals since summer 2009.

In the year prior to summer 2009 the sector saw no deals taking place at all, but the latest activity suggests a return to confidence among the major players.

The majority of the deals are cash-based, reflecting not just the ongoing scarcity of debt available – although this is improving – but also companies' desire not to become too leveraged. The latest activity is also indicative of the desire in the industry to actually build out developments rather than simply enlarge their land banks.

In an echo of the early 1990s recession, these deals are forward indicators of market activity, with joint ventures then marking the start of confidence returning to the residential

markets; it is anticipated that they indicate a similar situation today.

Allied to the new joint venture deals in the market is the restructuring of many existing property investments. During the boom, many banks not only lent money to housebuilders, but also took equity stakes in their development and investment vehicles to secure an even larger return.

The fallout from the global downturn on these particular ventures has been huge. With many of such vehicles now deeply 'under water', banks are looking at ways to minimise their losses and, if at all possible, secure a return on the investments they made.

Debt-for-equity swaps with these ventures are commonplace, with banks willing to bide their time and wait for residential property markets to return rather than realise a permanent loss on their investments.

The residential sector is a long way from being back to normal, but corporate activity with joint ventures is a positive sign that it is moving in the right direction.



Sagittarius – Nov 23 – Dec 22

Your zest for competition and new challenges never ceases. The next new Moon will give you clarity to recognise that it is time to get the paperwork to support your sentiments and ambitions. Others have been wondering why you have not done this a long time ago For a fuller reading of your chart contact John Hutchinson, e: jhutchinson@pitmans.com



Capricorn – Dec 23 – Jan 20

Every once in a while you forget that not everybody lives by your standards and professionalism. Your ruler, the planet Jupiter, provides you with a dazzling array of options that will soon come your way. Seek advice before you embark on a new cycle that will provide serious excitement For a fuller reading of your chart contact Janice Wall, e: jwall@pitmans.com



Aquarius – Jan 21 – Feb 19

As the planet Neptune enters your chart you realise that you deserve to be the centre of attention. All the world is a stage and you are a born entertainer and top scorer. A referee is required to give you sound and impartial advice off the pitch. Do not hesitate to kick around some new ideas For a fuller reading of your chart contact Jeremy Summers, e: jsummers@pitmans.com



Pisces – Feb 20 – March 20

The tides of the oceans regulate your activities and as the Moon rises this month you will be at the peak of your powers. A change of address beckons, but before you cross this bridge a fair maiden will advise on any pitfalls For a fuller reading of your chart contact Jane Hitchcock, e: jhitchcock@pitmans.com

Sport

Sports sponsors risking reputation damage

Sponsors of sportsmen and women could be putting their corporate reputations on the line and risking commercial damage by signing inadequate endorsement contracts.

By **Jeremy Summers**,
Sports Editor

Despite the inclusion of 'morality clauses' in the majority of endorsement contracts, a lack of clarity and detail within the agreements could make such terms worthless. While many companies believe they have a right to terminate a contract where a breach of the morality clause has taken place, the often vague nature of these terms means that the sponsor isn't necessarily entitled to walk away.

Recent press coverage of high-profile transgressions by Tiger Woods and John Terry has demonstrated how activities within the private lives of the athletes can impact on the perceived value of their endorsement. But would such private activities automatically allow a sponsor to terminate an endorsement contract?

Most endorsement agreements contain a clause requiring the sportsman to behave in an appropriate and moral manner. But such ambiguous terms can make defining this behaviour tricky. For example, is there a difference between a married sportsman having an affair and an unmarried star 'two-timing' his girlfriend? And what about drugs? Taking performance-enhancing substances can destroy the very essence of the athlete's reputation, but what is the effect of taking recreational drugs?

The lesson to be learned is that these transgressions need to be very specifically spelt out if the morality clause is to be enforceable. It may well be slightly embarrassing for the parties involved, but could save a lot of money and time should there be any issues with behaviour and actions.

The situation is complicated further by the reason for the sponsor's involvement. Taking a look at Tiger Woods, his two main sponsors (at least prior to the scandal) were Nike and

Accenture. As a sports company, Nike is obviously retaining Tiger's endorsement as the best golfer in the world, a position that is arguably unaltered by events in his private life.

But Accenture sponsored Tiger for different reasons. Accenture wished to bask more in the reflected glory of Tiger's entire image – the sportsman, the competitor, the great decision-maker and the family man with discerning taste. The impact of his affairs on this image was considered by Accenture to be much more damaging, and it is no surprise that Accenture terminated the contract while Nike continued their support.

The differing reactions of Nike and Accenture to Tiger Woods' infidelity also provide a good example of how companies can approach such issues. While Accenture decided that the damage to Tiger's reputation was too much for their association to continue, Nike chose to stand by their most prominent endorser.

Presuming it had a clear enough morality clause included in the sponsorship agreement, Nike would have been within its rights to terminate the contract. However, rather than employ the 'nuclear option' of walking away, Nike chose to support Tiger and continue its association with him.

Only a privileged few will know the actual terms of this continued support, but given the fact that Tiger has only just returned to the public eye, it is reasonable to assume that Nike has taken the opportunity to renegotiate their contract with him. By doing so Nike can maintain its relationship with Tiger, protect what has been a considerable investment in him to date and also secure better value for endorsement from him.

A watertight morality clause may give a firm the right to terminate an agreement, but, as Nike has demonstrated, this does not necessarily make termination the best outcome for all parties. A better morality clause may perhaps not only give the sponsor the right to terminate and walk away, but also to renegotiate the terms whilst the athlete takes time out of the public eye.

Inside
Sex sells pensions law
David Hosford p5



Football clubs continue administration flirtation

By **Suzanne Brooker**,
Sports Business Correspondent

Football clubs are continuing to experience administration in response to winding-up orders, increasing debt positions and for some, poor financial management creating problems at all levels of the football league.

The first club in the Premiership to be placed into administration is Portsmouth F.C., with this process and the associated nine-point deduction leading to the team being relegated to the second-tier of football. The club, which has already had four separate owners this season alone, continues to search for a buyer.

The situation is becoming increasingly critical and, as of March 26th 2010, 14 Premiership clubs had been blacklisted by credit agency Riskdisk, while five appear on Experian's critical list. In October 2009, Hull City's "ability to continue as a going concern" was questioned by Deloitte, the club's accountants. And all this at a time when the English game has more money flowing into its coffers than at any other time in its history.

The implications of these clubs not taking early steps to address the position they are in are widespread. The financial

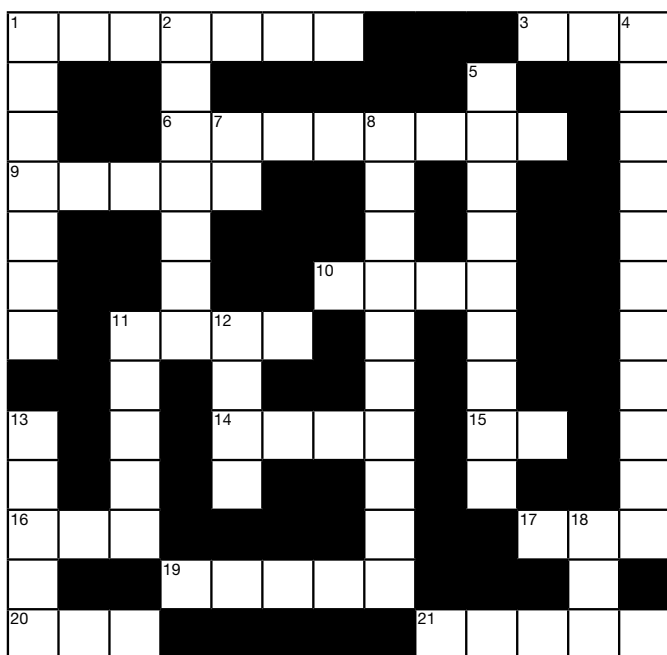
repercussions are obvious, as are the subsequent footballing issues; clubs forced into selling their best players are usually leading candidates for relegation. But less widely reported is the impact on local communities.

Many of these clubs undertake a significant degree of community relations and help to provide opportunities where perhaps none existed before. When entering into administration, this is a very obvious area for reducing expenditure.

UEFA has unveiled plans to curb spending by forcing clubs to break even and only spend what they earn. Designed to prevent wealthy owners "sponsoring" a team beyond its market value and inflating the clubs income, the proposals are to be implemented over a three-year period from 2012.

Although conceived with the best intentions, doubts persist that the new rules are enforceable. And clubs that run up operating losses and extend their debt position could face sanctions that may be counterproductive; for a team struggling financially to be ejected from a competition and lose yet another income stream could be disastrous and only exacerbate the problem.

Pitmans crossword 001



Across

- 1 Heart of the Thames Valley (7)
- 3 Barrier that impounds water (3)
- 6 Of its time (8)
- 9 Protect historic tower (5)
- 10 Lion noise (4)
- 11 Exchange or deliver for money (4)
- 14 Golf is one of these (4)
- 15 Abbreviated company (2)
- 16 Command to dog (3)
- 17 Favourite email text speak (3)
- 19 Chief buzzard (5)
- 20 Inland body of water (3)
- 21 Emerge violently (5)

Down

- 1 Change of image (7)
- 2 Better form of attack (7)
- 4 An alliance of sorts (11)
- 5 Risk management (9)
- 7 Indefinite article (2)
- 8 Fallen on hard times (10)
- 11 Physical exertion (5)
- 12 Company emblem (4)
- 13 Everything in life is a series of (5)
- 18 Victor Meldrew (3)

If you would like the solution please get in touch with **Susan Maloney**:
smaloney@pitmans.com
or visit www.pitmans.com

Copyright in all published text and materials including photographs, drawings and images in this publication belongs to Pitmans and/or relevant third parties, as appropriate. Accordingly, neither the whole nor any part of this publication may be reproduced in any form without the prior written permission of Pitmans and/or the relevant copyright owner. Views expressed in the articles, opinions and letters appearing in this publication do not necessarily reflect those of Pitmans. Further, whilst all reasonable steps have been taken to ensure that everything published is accurate and not misleading, Pitmans does not accept any responsibility for, or liability in respect of, any errors or omissions, or any resulting loss or damage whatsoever and howsoever caused. Readers have the responsibility to thoroughly check for themselves any and all facts referred to, or opinions expressed, in this publication before acting, or in any way relying, on those facts or opinions. The content of this publication should not be construed as legal advice and Pitmans disclaims any and all liability in relation to any reader who in any way makes use of, or relies on, such content. All trademarks are acknowledged.
© Pitmans 2010. All Rights Reserved.



Printed on Cyclus offset, 100% recycled
Designed and produced by tta group. www.ttagroup.co.uk

