

## Transparency



# bto News

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# Your pension and succession planning



The changes to pensions in recent years have turned tax and estate planning on its head...

Previously, people would draw down their pension and build up their savings so they had something to pass onto their children. OK, there may be Inheritance Tax to pay, but this was better than the 55% tax charge which would arise if they passed on their pension as a lump sum.

Now things are different. Pensions are an integral and crucial part of tax and succession planning. If a person dies before age 75, the pension can either be transferred as a lump sum or as a pension tax-free.

If a person dies after age 75, the pension can only be transferred as a pension rather than as a lump sum, but the beneficiaries will only have to pay income tax at their own marginal rate if they withdraw money. In both cases, the pension can be passed on for anyone's benefit, including a surviving spouse, children or grandchildren.

Because pensions can be passed on free of Inheritance Tax, they are a more efficient way of passing on wealth to future generations. All other assets that a person passes on after death will be subject to Inheritance Tax at the rate of 40%. This would include any savings, investments and ISAs. If the pension is preserved and the other assets are used to live on, the pension can be passed onto subsequent generations, whether as a cash lump sum or a pension, without any tax charge.

Your Will is a critical part of succession planning and should be the starting point for any conversation about what happens after your death. However, it is just as important to think about what happens to your pension once you die. Because your pension does not form part of your personal estate, it will be dealt with by the trustees of your pension fund. This means that it is important to make sure that your nomination letters are up to date and properly reflect your wishes.

Deciding whether to transfer a cash lump sum or the pension itself needs detailed consideration and

good professional advice. This issue needs to be considered as part of the overall estate plan, particularly where you have a spouse or children, and will be affected by a number of factors.

For example, when faced with the option of receiving a lump sum or the benefit of an ongoing pension, the tendency may be to opt for the lump sum. However, this may not be the best option as it may impact on the tax exposure further down the line. Transferring the pension to a beneficiary within the pension environment would have the advantage of giving them the access to the funds, but without it increasing the value of their estate.

All of these matters need to be balanced against the needs of the beneficiary and any restrictions on the pension itself.

For most people, pension freedom has caused a massive culture change and this will not come easy to many. However, with some careful planning and advice, you can help reduce the impact on Inheritance Tax on your estate so that your beneficiaries have more money to enjoy after you're gone.

Tax and estate planning is more complex than it has ever been and obtaining proper professional advice as early as possible is critically important.

The terms of the specific pension scheme will need to be considered and we can work with your financial advisor to make sure that everything is set up according to your wishes and in the most tax efficient way.

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# Data breaches: Are employers liable for rogue employees?



On 1<sup>st</sup> December, the High Court of Justice issued its much anticipated decision in *Various Applicants v Wm Morrisons Supermarkets plc*, finding the supermarket chain liable for the unauthorised disclosure of personal data by one of their employees.

Over 5,000 employees are suing their employer, Morrisons, for compensation arising from breach of section 4(4) of the Data Protection Act 1998 and also at common law for misuse of private information and breach of confidence. Direct liability and vicarious liability were argued.

In 2013, Andrew Skelton, an internal auditor with Morrisons, copied the payroll master file containing personal data relating to over 120,000 employees, posted it on a file sharing website and sent it to local and national newspapers. This was apparently done in retribution for his having received a verbal warning at work.

Skelton was charged with an offence under the Computer Misuse Act 1990 and sentenced to 8 years imprisonment.

5,518 of the Morrisons employees affected by the breach raised civil proceedings against Morrisons for the breach.

The claimants argued that Morrisons was directly responsible for breaches of Data Protection Principles 1, 2, 3, 5 and 7. The court found that there had been no breaches of Principles 1, 2, 3 and 5, by Morrisons. The court found that Andrew Skelton became the data controller on receipt of the information he stole. At that point, *he* assumed responsibility for the data and was liable for any breach in respect of it.

But the court did find that Morrisons breached Principle 7 for failing to ensure that data stored on employees' laptops was deleted shortly after it was transferred. However, the judge added that even if Morrisons had taken these steps, the data breach would not have been prevented.

The court also found that there was no basis for any direct claim against Morrisons for breach of confidence or misuse of information.

In assessing vicarious liability, the court ruled that there was an unbroken thread that linked Skelton's employment to the disclosure, citing the degree of careful planning which Mr Skelton had undertaken

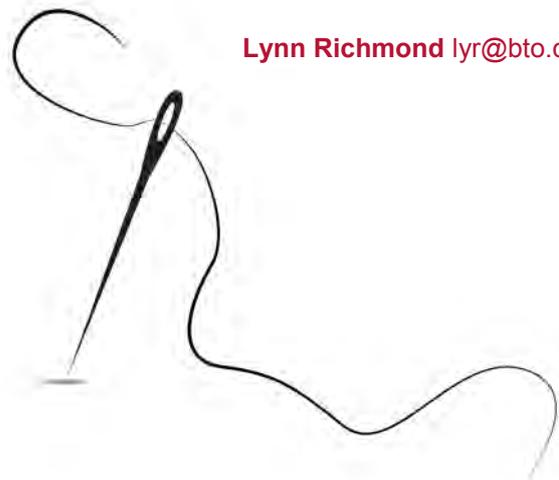
in support of the seamless and continuous sequence of events which tied the disclosure to his employment.

The judgment is perhaps unusual in that it appears that the greater the degree of planning undertaken by the employee to commit the wrongful act, the more likely it is that vicarious liability will be established. This is borne out by the closing remarks of Mr Justice Langstaff: "*The point which most troubled me in reaching these conclusions was the submission that the wrongful acts of Skelton were deliberately aimed at the party whom the claimants seek to hold responsible, such that to reach the conclusion I have may seem to render the court an accessory in furthering his criminal aims.*" Leave to appeal the judgment as to vicarious liability was then granted.

This decision will give some comfort to Data Controllers in that no fault which contributed to the loss was established under the Data Protection Act. While Morrisons were in breach of Data Protection Principle 7, that did not contribute to the disclosure of the data which arose as a result of the very deliberate acts of Mr Skelton.

However, the conclusion reached on vicarious liability will no doubt give rise to concern among employers. Not only was the act unauthorised and criminal, it was specifically designed to harm the employer. Given the circumstances and the potential implications, an appeal seems likely but on the face of it, this decision on a data breach matter will have more far reaching consequences for employers generally. It is highly likely that the decision will be appealed.

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## “Holidays are coming...”



As 2017 draws to an end, it's time to reflect on what has been another busy and momentous year in the field of employment law.

The 'big one' from a social justice perspective was the end of Employment Tribunal fees which acted as a barrier to individuals seeking to pursue their workplace rights. At the same time, another hot topic is the developing area of the 'gig-economy' whose profile has continued to rise throughout 2017, with a number of court rulings affecting organisations such as Uber and Deliveroo, considering whether certain individuals are entitled to the legal protections given to “workers”.

This is an area that could have massive implications for businesses (and individuals) and is certainly one that has grabbed our attention.

By way of a quick recap, there are generally three categories of individuals who are engaged in work in the UK: 'employees', 'workers' (who may sometimes be described by the parties as “self-employed”) and *genuinely* self-employed individuals who are not workers. These individuals have varying workplace rights depending on that status:

- **Employees** work under a contract of employment and enjoy a number of employment rights and protections, including the right not to be unfairly dismissed and redundancy rights, as well as entitlement to holiday pay and protection from discrimination.
- **Workers** will have a contract to work personally for another party, although the relationship will not bear the hallmarks of employment. They have fewer rights, and do not, for example, have the right to claim unfair dismissal. However, workers are entitled to paid holidays, are entitled to rest breaks etc. and have the right not to suffer discrimination. They are also likely to be covered by the TUPE Regulations.

This is a tricky area and one where businesses could run into costly difficulties, particularly where they seek to maintain that an individual is 'self-employed' or a 'consultant' or 'contractor', and that does not reflect the reality of the true working relationship. A tribunal or court will look at the reality of the relationship and not the name given to

it by the parties. It is this battleground - self-employed status v worker status - that has been the subject of recent high profile litigation, and several of these cases are proceeding to the Supreme Court given the importance to the companies concerned and the cost implications if the individuals are found to be workers. In particular, the cost of providing 5.6 weeks paid annual leave under the Working Time Regulations is very significant.

This has been brought into sharper focus by a recent ruling of the European Court of Justice which held that a worker is entitled to be paid on termination of the engagement, for any periods of annual leave that have accrued during the engagement, where the worker has been discouraged from taking that leave because it would have been unpaid. This again could have massive implications for businesses (and individuals) where workers have been erroneously classed by the business as 'self-employed' or as independent contractors or consultants, and denied holiday pay. Potentially, entitlement to paid annual leave will have accrued year by year and, whatever the length of the engagement, the worker could claim compensation for this, backdated at the end of the engagement. If this entitlement has built up over a number of years, this could be a significant sum, which could leave businesses facing very substantial holiday pay bills.

Keep an eye out for our regular blogs throughout 2018, for updates on this and other employment law topics, and add us to your favourites.

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# The importance of getting it right



The Scottish legal system is dependent on the requirement to give notice – a fundamental concept that parties need to be formally made aware of certain developments for them to be valid.

If you're a landlord or a tenant in a commercial lease, or indeed a party to any commercial agreement, the need for the content of notices to be accurate, and compliant with requirements for service (particularly timing), is key - mistakes can be costly.

## One mistake too many?

The 2015 case of *West Dunbartonshire Council v William Thompson and Son (Dumbarton) Ltd* highlights the importance of accuracy in serving notices. Here, the landlord served a rent review notice on their tenant. The notice contained an accumulation of minor errors in designing the tenant. The question for the Court was whether, notwithstanding these errors, it (i) constituted a valid notice to the tenant, and (ii) triggered the rent review provisions.

The designation of the tenant in the lease was '*William Thompson and Son (Dumbarton) Limited.*' The rent review notice was issued to '*Wm Thompson & Sons Ltd.*' Note the omission of "(Dumbarton)" from the designation, the use of "Sons" rather than "Son" and abbreviations.

On appeal, the Court of Session took the view that a clear distinction had to be made between a failure to comply with the requirements of the empowering document (the lease) and errors in the content of the notice.

The Court observed that the party challenging the notice does not need to show that they were misled. It was enough to show that the notice simply did not comply with the contractual Lease requirements.

As the tenant was clearly defined in the lease, the Court decided that the notice had not been addressed to them. As a result, the ability to invoke the rent review was lost – a harsh consequence of seemingly minor errors.

## Maybe we don't need to be so correct after all!

The recent 2017 decision in the Court of Session *Hoe International Ltd v Andersen* case takes a different approach altogether. This case related to the intimation of a breach of warranty claim in a Share Purchase Agreement. Prescribed requirements were set out in the agreement relating to the service of notices. Notices had to be:

- sent recorded delivery;
- marked for the attention of a named individual;
- sent to the other party's solicitor, as well as to the address of the other party.

A Notice of Warranty Claim was issued. The notice was challenged because it had not been directed to the named individual at the address of the other party, nor served by recorded delivery. It had just gone to the other party's solicitor.

Nonetheless, it did manage to find its way to the correct person eventually. The Court took the view that, despite several failings, the notice was validly served.

They concluded that the intended recipient had not been prejudiced, in a practical sense, by failure to adhere to the notice requirements. Therefore, insisting on compliance for its own sake served no useful purpose.

## Will the Courts not be so insistent on strict compliance with notice provisions going forward?

Despite the decision in the *Hoe International* case, accuracy in form and service is essential. The more mistakes, the less likely a Court will be to accept that the recipient knew what any notice was intended to mean, or that it reached the correct recipient, in the first place.

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# Criminal Finances Act 2017



The Criminal Finances Act 2017 (the “Act”) came into force on 30 September 2017 and creates new corporate criminal offences of failing to prevent facilitation of UK and foreign tax evasion.

## The Offences

The Act makes it a criminal offence for companies, partnerships and other corporate bodies (“**relevant bodies**”) to fail to prevent a person associated with it from criminally facilitating the evasion of tax, both in the UK or abroad. The offences are strict liability offences and do not require proof of involvement of the directing mind. This means that if an “associated person” facilitates tax evasion whilst acting for the relevant body, the relevant body will be liable unless it can prove that it had reasonable prevention procedures in place. Until now, it has not been possible to ascribe criminal liability to the firm where it occurred.

The offences are similar to the Bribery Act 2010 offence of failing to prevent bribery, however in contrast to the Bribery Act 2010, it does not matter whether any benefit has been obtained from facilitating the tax evasion.

## What is an “associated person”?

An associated person is defined as:

- an employee;
- an agent; or
- any other person who performs services for or on behalf of a relevant body.

## Scope

Professional services companies and partnerships are considered to be most at risk of an associated person facilitating tax evasion, however, in its guidance the government provides examples outwith the financial services sector and stresses that any sector can fall within the ambit of the Act.

## Defence

A relevant body may avoid criminal liability where it can show that it had reasonable prevention procedures in place. These procedures need to be dynamic and must be capable of changing over time in response to (i) changes to evaders’ methods; (ii) organisational learning and improvement; (iii) changes to technology and best practice; and (iv) changes to the nature of a relevant body’s business and markets.

The government guidance suggests that prevention procedures should be informed by the following six principles:

**Risk assessment** – the relevant body must assess the nature and extent of its exposure to the risk of those who act in the capacity of a person associated with it criminally facilitating tax evasion offences.

**Proportionality** – reasonable procedures will be proportionate to the risk of an associated person committing tax evasion facilitation offences, and will depend on the nature, scale and complexity of the business.

**Commitment from senior management** – firms must demonstrate that senior management is committed to preventing persons associated with it from engaging in facilitation of tax evasion. Top-level management should foster a culture within its organisation that the facilitation of tax evasion is never acceptable.

**Due diligence** – relevant bodies should apply due diligence procedures, taking an appropriate and risk-based approach in respect of associated persons in order to mitigate identified risks. This means understanding the risks posed by the different business areas in which the firm is involved and developing and applying procedures in order to identify and mitigate risk of criminal facilitation of tax evasion being carried out by any associated person.

**Communication** – firms must ensure that their prevention policies and procedures are communicated, embedded and understood throughout the firm.

**Monitoring and review** – firms must monitor and review their prevention procedures and make improvements when necessary.

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# Simple Procedure — one year on



This time last year, the Simple Procedure replaced the Small Claims and Summary Cause Procedures in the Sheriff Court for actions seeking payment of sums up to £5,000 or where specific implement is sought. At that time, David Young published an article explaining the basics of the new procedure. One year later, it is clear that Simple Procedure is, in some respects, a different beast to its predecessors.



The Simple Procedure Rules are designed to be much more accessible to party litigants, utilising a “question and answer” format. In the Claim and Response Forms, much effort is expended in explaining how they should be completed.

The Simple Procedure Rules provide Sheriffs with significantly greater powers than the Small Claims and Summary Cause Rules. Rule 1.8 provides that the Sheriff may, among other things, “*do anything or give any order considered necessary to decide the case*”. The Sheriff is empowered to set and alter deadlines, time periods, form, location and conduct of Case Management Discussions or Hearings.

This wide-ranging authority allows Sheriffs to approach Simple Procedure with a great deal more flexibility than under the previous procedures, or indeed under the Ordinary Cause Rules, and it appears to be the case that Sheriffs across Scotland are embracing this flexible approach. From Aberdeen to Hamilton, there have been instances of Sheriffs assigning Hearings on purely legal matters, akin to Debate hearings encountered in Ordinary Cause actions where the sums at stake exceed £5000.

This allows cases which turn on legal issues to be dealt with on a purely legal basis. Previously, under the Small Claims or Summary Cause Rules, witnesses would require to be led and evidence heard, before legal issues could be considered by the Court. Therefore, this new regime can lead to

swifter, less costly resolutions for cases where the facts may be straightforward but complex legal matters are in dispute.

Whilst the change in the Rules has given rise to such flexibility, parties should be aware that the position on expenses in Simple Procedure remains broadly in line with that of Small Claims and Summary Cause, with the successful party's expenses generally being restricted to:

- nil if the value of the claim is £200 or less,
- £150 if the value of the claim is between £200 and £1,500 and
- 10% of the value of the claim for claims between £1,500 and £3,000.

That said, there still remains the prospect of expenses being uplifted. Whilst not exactly commonplace under the previous rules, there was statutory provision for an uplift of expenses, should the circumstances justify doing so (S.36B of the Sheriff Courts (Scotland) Act 1971). That provision has by and large been replicated by section 81 of the Courts Reform (Scotland) Act 2014, which empowers a Sheriff to remove the cap on expenses in Simple Procedure cases in specific circumstances, such as when the parties behave unreasonably.

In conclusion, the Simple Procedure has heralded an interesting new dawn in the civil court system and, in principle, is more forgiving to parties unfamiliar with the Court process. However, it is not a licence for parties to be remiss in their approach. The Court will still look critically upon parties who act unreasonably in the course of a Simple Procedure action, and possibly make that displeasure known through an uplift of expenses or dismissal for non-conformity with the rules. Therefore, there is still a great deal of value that a solicitor can add to litigating under the Simple Procedure Rules.

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## “You keep yours and I’ll keep mine”?



During a divorce, couples are often surprised to learn that pensions are one of the most valuable assets they own and many have no idea how they are treated on divorce. Often, couples take the approach of ‘you keep yours and I’ll keep mine’, without stopping to think whether that is fair for them.

In Scotland, the law provides that the matrimonial property at the date of separation should be shared fairly between the parties. A fair sharing starts off as an equal sharing, although there are a number of ‘special circumstances’ that may justify the matrimonial property being split unequally.

Pensions are matrimonial property and are therefore due to be split as part of overall settlement on any divorce. This is usually done offsetting against other assets or by way of a Pension Share. A Pension Share involves the transfer of a pension credit out of one fund into a newly set up fund for the spouse as part of an arrangement upon divorce.

Often, someone will have begun their pension before marriage. Where this is the case a legislative formula is applied in order to apportion out the non-matrimonial part of the pension.

Until 2017, it was believed that pensions that were started before marriage, and to which the pension member had stopped making contributions before marriage, would be entirely exempt from the definition of matrimonial property. However, following the landmark Supreme Court decision of *McDonald v McDonald*, it now seems to be that pre-marriage pensions will fall to be deemed as matrimonial property if the spouse continues to be a member of the scheme.

This is because the *McDonald* case clarified the legislative formula to make the ‘period of membership’ include **all** kinds of membership in a pension scheme, including ‘deferred membership’ (when you have stopped making contributions but are not yet drawing down on the pension) and ‘pensioner membership’ (when you have started to receive your pension). This means that much more of your historic pensions will fall to be included for division as matrimonial property.



In some cases, this could be deemed to be unfair. In such cases it would be open for the spouse with the pension in question to argue special circumstances, asking the court to divide the matrimonial property between them unequally.

Arguments would then ensue about “special circumstances” and the courts will have discretion as to whether to exclude that pension or part of it.

This decision could have particularly negative consequences for those entering into second marriages later in life who have built up substantial pension interests before marriage. This makes it even more important for a prenuptial agreement to be entered into that clearly ring fences the pension from claims.

Other pension pitfalls also need to be borne in mind. Prudent financial planning advice often leads to the transfer of pensions funds during marriage, but this can inadvertently lead to the spouses having stronger claims on the “new” pension funds.

This new decision has yet to be tested and as such, family lawyers are in a state of ‘wait and see’, but with Mr and Mrs McDonald’s case now making its way back through the Sheriff Court for a final decision, you will want to watch this space.

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## “Tis the season...” A sobering thought



With the Festive Season fast approaching, the Scottish Government's lowering of the drink driving limit remains a sobering thought...

With the Festive Season fast approaching, the Scottish Government's lowering of the drink driving limit remains a sobering thought. Scotland's 50mg of alcohol per 100ml of blood limit is lower than the rest of the UK (where the level remains 80mg).

This has been accompanied in recent years by Festive enforcement campaigns by Police Scotland to identify those breaching the new limit. Around 19,000 drivers were stopped during the 2016/17 festive period campaign with a total of 625, or 1 in 30, over the limit compared with one in 36 during the same period in the previous year.

If convicted of drink driving under the Road Traffic Act 1988, the Court has the power to impose a range of sentences from financial penalties to imprisonment of up to 12 months in more serious cases, in addition to imposing a minimum disqualification from driving of 12 months.

The Crown Office and Procurator Fiscal's Service, who prosecute crime in Scotland, are also making increased use of powers under the Road Traffic Offenders Act 1988 to seize and forfeit vehicles involved in alleged drink driving offences, meaning that individuals charged may face further financial and practical hardship through loss of their vehicle, in addition to the sentence passed by the Court.

Perhaps most at risk are the 'next day' drivers who do not appreciate that they remain over the limit when getting behind the wheel. A number of high profile prosecutions and convictions have shone further spotlight on this issue.

Our expert criminal defence solicitors have a wealth of experience in this area representing clients throughout the country. It is never too early to seek legal advice.

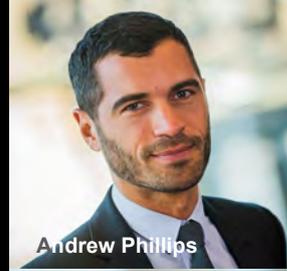
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# BTO Update

## BTO announces senior promotions

In April 2017, BTO's Chairman **Alan Borthwick** announced senior promotions across the firm. Four senior solicitors were appointed as Associates: **Andrew Phillips** and **David Cairns** work within our top tier Health and Safety, Regulatory and Criminal practice. They have represented clients in some of the most serious and high profile cases heard in the Scottish criminal courts. **Jennifer King** is a member of BTO's Professional Discipline & Clinical Defence team, ranked Band 1 by Chambers UK and the Legal 500. Jennifer assists in representing medical and dental professionals before the General Medical Council and the General Dental Council. **Eileen Sherry** specialises in property, product liability, policy and multi-jurisdictional claims within our Insurers' Representation team.



Andrew Phillips



Jennifer King



David Cairns



Eileen Sherry



Left to right: Paul Motion, (head of BTO's Data Protection team), Lynn Richmond (Associate), Alan Borthwick (BTO Chairman) and Laura Irvine (Partner).

## New Partner

In September 2017, Solicitor Advocate **Laura Irvine** was promoted to partner. Laura works on data protection, cyber risk and compliance matters - growing areas of business for BTO. She also sits on the board of the Scottish Business Resilience Centre and is increasingly in demand for the provision of advice and training to organisations dealing with this topical issue. The Data Protection team was also strengthened with the appointment of associate **Lynn Richmond** who is experienced in commercial dispute resolution, technology and intellectual property and data protection.



## Tony Jones appointed as Queens Counsel

In September 2017, Partner and Solicitor Advocate **Tony Jones** was appointed as a QC by Her Majesty the Queen on the recommendation of First Minister Nicola Sturgeon. Alan Borthwick, chairman of BTO, said: "*Due to the demanding selection process, relatively few Solicitor Advocates have become Queen's Counsel, so this is a fantastic achievement for Tony and greatly enhances our litigation service.*"

# News

## BTO delivers record financial performance in first year as LLP

In September 2017, BTO published details of its financial performance in its first year of trading as a Limited Liability Partnership, revealing record results: revenue for the trading period 1 April 2016 – 31 March 2017 was £18.916m and profit was £7.82m. This represents a 62% increase in revenue over five years. Alan Borthwick, Chairman, also announced a 50% increase in personnel during the same period.



## ADVantage BTO

In October 2017, **Jamie Reekie** passed his civil Solicitor Advocate exams and was admitted as a Solicitor Advocate. Jamie, based in Edinburgh, specialises in commercial dispute resolution and has amassed a wealth of experience of appearing in a number of Sheriff Courts throughout Scotland. With three criminal and fifteen civil Solicitor Advocates, BTO now has one of the largest and strongest in-house advocacy teams Scotland.



## Top rankings in The Legal 500 and Chambers UK

We are delighted to announce top-tier rankings in the latest editions of The Legal 500 and Chambers UK. Tier 1 rankings held in both legal directories include: **health and safety**, **professional negligence** and **medical negligence (defender)**. BTO's **leisure & hospitality** team also holds a tier 1 ranking in The Legal 500 and its **professional discipline** and **crime** teams are band 1 ranked in Chambers UK.



## Accreditation in tax & estates arena

In November 2017, BTO was awarded **Employer Partner accreditation** of the STEP Employer Partnership Programme (EPP), cementing the firm's commitment to delivering tax planning, wills and estates services of the highest standard and to cultivating a culture of continued professional development among employees. In the photograph on the right, Gemma Copestick, Employer Partnerships Manager at STEP (Society of Trust and Estate Practitioners) is presenting partner **Roddy Harrison** with our certificate. BTO's **Jocelyn Gilda** and **Ross Brown** also feature.



# Events & Conference Highlights

## NFU York

In May, representatives from BTO's product liability, personal injury and health & safety and regulatory teams visited York to attend the NFU Mutual's Annual Supplier Fair. It was great to meet and speak with so many of our contacts in person. We look forward to seeing them again next year.



**Paul Motion**, Solicitor Advocate and head of BTO's Technology and Data Defence teams, will identify areas of cybercrime risk affecting performers, managers and visitors at the Fringe. He will also provide suggestions to effectively manage this risk.

# Cyber Crime

in the Entertainment Industry

**Where?** Lecture Theatre, Fringe Centre (Venue 2), Appleton Tower, 11 Crichton Street, EH8 9LE

**Price?** Free ticketed (1h show)

**When?** Monday 7 Aug. (10:30), Friday 11 Aug. (15:00) and Sunday 20 Aug. (16:00)

## Edinburgh Fringe - Don't let the cyber crooks have the last laugh

In August, **Paul Motion**, Solicitor Advocate and head of BTO's Technology and Data Protection teams, was invited back to the Edinburgh Fringe to highlight the cyber security risks to which members of the performing arts community can be vulnerable when participating in the Fringe and other events.

## Knowledge exchange

Representatives from BTO's Construction & Engineering team have been guest speakers at key events this year. In August, Consultant **Ann O'Connell** presented *Project Contract and Procurement* at the Building Standards Compliance Framework event: "The Devil" is in the Detail", organised by **Local Authority Building Standards Scotland (LABSS)** in association with the **Federation of Master Builders**. In November, **Sandra Cassels** covered *NEC4 and JCT Construction Contracts* and accredited employment law specialist **David Hoey** discussed *Employment Law - Essentials for small business owners* at the **RICS Building Surveying Conference**. **Marion Davis**, an accredited specialist in charity law, has provided regular training sessions in charity law and governance matters to a wide range of audiences.



Ann O'Connell



Sandra Cassels



David Hoey



Marion Davis



In the Autumn, BTO was invited to present "*Legal update - The cost of getting it wrong*" at the IOSH conference as part of 2017/2018 IOSH CPD programme. The photograph on the left features Jim Tassell, former Chairman of IOSH and George Mills, current IOSH Chairman with **Amy Campbell** and **Clare Bone** of BTO's Health & Safety and Regulatory team and **Rhona Cameron** of the catastrophic injuries team.

# “Demystifying” the **GDPR**

## Taking the pressure off you

The General Data Protection Regulation will apply to all employers of all sizes and sectors and will come into force on 25 May 2018.

In 2017, BTO's data protection team has been providing guidance throughout the UK on GDPR and how to comply. Recipients of the team's training have included: the CBI, IBM, the Direct Marketing Association, Fife Council, The Law Society of Scotland, George Watson's College, Lockton, Scottish Business Insider, the Scotland Housing Network, Arts & Business, TEAM, Insurance Post Claims Club Summit and representatives from the public sector, among others. As GDPR fines can be up to 20 Million Euros or 4% of annual global turnover, whichever is greater, this legislation cannot be ignored.

BTO also recently sponsored the Edinburgh Christmas Cyber lecture aimed at inspiring high school pupils into a career in cyber security. This funding contributed to enabling children in underprivileged areas to attend the lecture. **Laura Irvine** (featured below with **Paul Motion**) also presented at the Stornoway event on 8 December.



# Sponsorship

In June 2017, BTO sponsored the “Bridges to Wonder” charity exhibition which highlighted the opening of the new Queensferry Crossing. The exhibition was held at the Arusha Gallery in Edinburgh, where artists sold their art to support the charitable work of **Art in Healthcare**, a charity which improves the healthcare experience of people across Scotland with displays of visual art in hospitals, treatment centres and care homes. Artists included, among others.



Lesley Gordon (BTO partner and Board member of Art in Healthcare), Hilary Mounfield OBE (Chair of Art in Healthcare Board), Margaret O'Connor (Chief Executive of Art in Healthcare) and Kate Downie (Artist).



## “South Tower Yellow Crane”

BTO also sponsored the creation of an original work of art by Kate Downie. A limited edition print of “*South Tower Yellow Crane*” was launched at the exhibition and all proceeds from sales of the print will assist the work of Art in Healthcare. Alan Borthwick, BTO’s chairman, said: “Sponsoring BRIDGES TO WONDER is a great opportunity for BTO to support Scottish artists and Art in Healthcare in the creation of inspiring environments that will have a positive impact on the wellbeing of patients.”



A “Market Leader” **bto** solicitors  
“Client care is **one.**”

# Edinburgh Art Fair

On 17-19 November, BTO was proud to be headline sponsor of the **Edinburgh Art Fair**.

EAF has gained an international following, with exhibitors from the USA and Denmark lined up alongside 60 other exhibiting galleries from the UK and Ireland bringing an eclectic show of high quality original artworks from over 500 emerging and established artists.

Alan Borthwick, BTO's chairman, commented: "BTO Solicitors is delighted to sponsor the Edinburgh Art Fair, which is now the largest event of its kind outside London. The Fair is an excellent platform for showcasing art work from leading modern and contemporary art galleries from within the UK and abroad and BTO is very pleased to be part of this significant event."

Art for Everyone!  
**EAF2017**  
65 Galleries | 3 Days | 1 Venue  
Edinburgh Corn Exchange  
www.edinburghartfair.com

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# Art for Everyone!  
**Edinburgh Art Fair**  
17th - 19th November

Edinburgh Corn Exchange, EH14 1RJ | Open 11am Each Day | Admission £5 / Conc' £3  
65 Galleries | Crèche | Open Easels | Artist Talks & Demonstrations | Restaurant | Bar  
Media Partners:  
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# BTO events



Sailing Trip to Loch Fyne, Summer 2017

## BTO Golf Outing, Glenbervie Golf Club, June 2017



## Havana themed summer drinks, London, June 2017



## Pre-Festive drinks at The Gherkin, London, November 2017



## Drinks & Canapes pre private view of Edinburgh Art Fair, November 2017



## Festive drinks at The Blythswood, Glasgow, November 2017





Left to right: Tim Webster and Angus Crawford are in the white shirts.

## 5 Ferries Cycle

On 2 October, Angus Crawford and Tim Webster of our insurance team successfully completed the “5 ferries cycle ride”.

The trip started in Brodick and then 5 ferries and over 50 miles later ended in Wemyss Bay. The hills were tough, but Angus and Tim would have us believe that the beautiful scenery made up for the pain. See left a picture of the ‘Dream Team’ who were raising money for **The Scottish SPCA**, BTO’s staff charity for 2017.



From left to right: Mark Hastings, Jennifer White, Scott Buchan, Alan Eadie, Rachel Holt, Angus Crawford, Eileen Sherry, Morven Hopper, Carol Ann Wilson and Laura Ann McLeod.

## Great Scottish Run

We are delighted that two teams represented BTO in the Great Scottish Run on 1 October and completed the Corporate Challenge 10km race.

Rain and wind did not discourage our determined runners who, as well as achieving personal goals by participating in this race, were fundraising for **The Scottish SPCA**.

## Best wishes for the festive season

Thank you for taking the time to read our newsletter. We hope that you have enjoyed the content and we all look forward to working with you again in next year. In the meantime, on behalf of everyone at BTO:

*Best wishes for a peaceful and prosperous 2018.*

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