



FREETHS

PLATINUM CONNECT

Welcome



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Welcome to the Summer edition of Platinum Connect Magazine.

We have once again put together summaries of recent cases and topical issues in the legal profession to help business professionals assist their clients with private wealth and commercial issues.

Our aim is to share our specialist knowledge and expertise with our referrers and clients to help grow and protect their wealth.

This edition gives advice on what happens to people's online identities after they pass away, mental health in the workplace, removing executors from Wills and how to avoid being sued for social media defamation.

We also have an article written by Michael McGrath from NSPCC and Trustee of Lepra who discusses his career so far in Philanthropy. We also have Geoff Hudson-Searle, an international director, who has written an article on the challenges of leadership and digital discussion.

Please do not hesitate to contact us if you think we can help or you have questions regarding any of the articles in this edition.

We hope you enjoy reading our magazine.

Best wishes,
Rachael Oakes & Nigel Roots

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Protection Racket

The last few months has seen a lot of noise in the pensions press as a result of the First-tier Tribunal decision *Hymanson v HMRC* and the subsequent withdrawal of HMRC's appeal in the case.

Since the Finance Act 2004 and following various Government decisions, there have been many iterations of fixed and enhanced protection introduced by HMRC. Whilst numbers vary, estimates suggest that somewhere between 20-100,000 individuals have, as a result of genuine mistakes, lost some of these forms of protection. A common reason could include directors and executives being inadvertently automatically enrolled or re-enrolled and having contributions deducted, only discovering that this is the case months after the event has happened.

The Hymanson v HMRC Case

Mr Hymanson was granted fixed protection in 2012 giving him a lifetime allowance of £1.8 million, and as a result he could not make any further contributions to any of his four pension arrangements. It was only following a cancer diagnosis in 2015 that Mr Hymanson noticed that direct debits to two of his pension schemes had been continued in error. Whilst he sought HMRC's agreement for the contributions to be refunded, HMRC's initial position was that the only mistake they would accept was if the individual had told the bank to stop making payments and the bank had failed to act. As this was not the case, HMRC's position was that the certificate of fixed protection was therefore lost.

The First-tier Tribunal pointed out that HMRC had failed to consider the possibility that the contracts under which the individual had continued to make payments to the relevant pension schemes might be void as a result of a mistake. Equally, where a taxpayer would be entitled to rescission if it were unable to take his case to the High Court, the Tribunal could make a determination as if that remedy had been granted. In effect, the Tribunal was allowing the decision to be set aside on the grounds of mistake where such action would be appropriate. In the circumstances, the Tribunal accepted it did not have the power to order rectification and made a determination that rectification would be granted by Court (which did have jurisdiction to grant it), the taxpayer's position would follow as if such rectification had been granted by the Court and therefore ordered HMRC to issue a new fixed protection certificate to the taxpayer.

In reaching its decision, the Tribunal considered that the additional contributions added up to just £7,000 whereas the loss he faced as a result of the fixed protection being lost was over £50,000. In these circumstances they believed it was inevitable that the individual would have stopped the direct debit payments to the pension scheme as this resulted in disproportionate loss to the individual.

Don't Lose Out

Recent analysis undertaken by Royal London has found that more than 1 million pension savers could end up breaching the

lifetime allowance limit by the time they reach retirement so it is more important than ever that individuals and their advisors keep a close eye on pension pots and if there is any danger of breaching the annual allowance, specialist financial advice should be sought.

Where anyone has made genuine errors which has resulted in them losing their lifetime allowance and a tax charge had been applied, we would strongly recommend that now is the time to investigate the merits of going back to HMRC.

For those at risk and, let's face it all pension savers are human and mistakes will continue to be made, the best advice is to be ready to act. For those individuals with final salary benefits the recent Lloyds Bank equalisation GMP case could see schemes choosing to "convert" GMPs which could also lead to inadvertent loss of HMRC protections.

As always, each case will turn up on the facts and whilst the above case throws out a lifeline for lifetime allowance protection, there is no automatic resumption of protection once it is lost, given the costs involved (penalties of 55%) it is always worth exploring whether protections may be reinstated.

If you're interested in further information, please contact me.



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What happens to our online identities when we die?

Earlier this year, the Guardian reported that there could be as many as 4.9bn dead users on Facebook. We all know that we should make arrangements for what happens to our physical assets when we die but we also need to consider what happens to our digital assets.

As we increasingly live our lives online and spend large amounts of time and money there, it is as important to make our wishes for our digital assets known as it is for money, property and personal possessions. A digital asset could be anything from a photograph to a music collection to online bank accounts to loyalty points on a shopping account, all of which can have monetary value that can be lost if not planned for adequately.

Unfortunately, UK law has not provided an easy solution to digital estate planning. Instead, a complex collection of different laws applies to provide different protections. Copyright law as set out in the Copyright, Designs

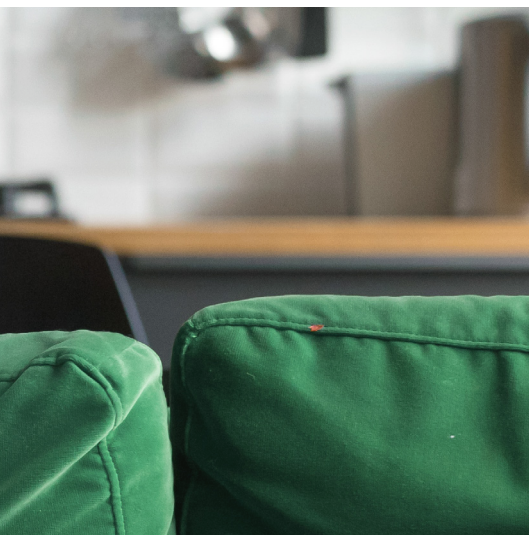
and Patents Act 1988 applies to protect any intellectual property rights held online, Article 8 of the European Convention on Human Rights (incorporated into UK law by the Human Rights Act 1998) determines questions of confidentiality and contract law determines rights of access to digital assets. The USA has led the way in this field and as far back as 2014, the US Uniform Law Commission approved the Uniform Fiduciary Access to Digital Assets Act. Although this act has not yet been adopted by all US states, it has been enacted in many and it gives fiduciaries (such as executors on death or attorneys in the event of mental incapacity) the right to access digital assets following death or loss of mental capacity.

In the UK, any personal representative of an estate has a duty to collect and preserve the deceased's assets (section 25 Administration of Estates Act 1925). Some assets, such as the contents of an iTunes account

cannot be legally passed on because the user only buys the rights to use the files during their lifetime. Other accounts will contain money or assets that can be passed on if the right procedures are followed. When creating online accounts, it is important to review the terms and conditions to which you subscribe, particularly terms applying to what happens if a user dies or becomes mentally incapacitated. Failure to do so could lead to data being destroyed before an executor/attorney can gain access to it. Some internet service providers have their own digital estate planning tools. Facebook for example provides an option for users to appoint a 'legacy contact' who can take control of a deceased user's page and memorialise it. Google has an inactive manager facility. Others are not so helpful and may automatically close accounts owned by deceased users, with others being frozen following death. To avoid unnecessary loss, consider the following digital estate planning points:



1. How will your executor/attorney find and if necessary access your assets following your death? Consider preparing a record of your online life-apps, email accounts, social networks, blogs, photo sharing sites, bank accounts and provide login details to those accounts. Your passwords should obviously not be given in your Will as that becomes a public document so consider a separate log/letter of wishes.
2. Do any of the relevant terms and conditions to which you have subscribed prohibit or limit how your accounts can be accessed or controlled by your executor/attorney?
3. What hardware do you own and how will that be accessed following death? Would you wish to leave your PC/Mac/tablet/smartphone to a particular digital executor or beneficiary for them to carry out your instructions?
4. How will your wishes be carried out? Would you wish to direct that any or all of your computer devices be cleared of content before being distributed to recipients/beneficiaries?
5. What rights and interests do you legally own and what rights and interests do you hold under a licence type arrangement that will terminate on your death?
6. Are your assets restricted by confidentiality agreements that you have signed? In some cases for example, assets that you believe to be yours may be owned by your employer.
7. Does the digital asset have any value and if so, how can that be realised post-death? If assets held online have more than a merely sentimental value, consider including them in a separate legacy with Digital Executors appointed to safeguard them. The Digital Executors can then exploit any intellectual property that you may have.
8. If photographs, blogs and tweets do not have a monetary value, they may still have a sentimental value. Consider whom you would like to leave these to. Since the advent of the Inheritance and Trustees Powers Act 2014, for Wills executed on or after 1 October 2014, the definition of personal chattels (personal belongings) broadly includes all tangible assets but will not include digital assets which by their nature are intangible. Specific wording to make these gifts must therefore be incorporated into your Will.
9. Print off hard copies, burn to CD or download onto a USB stick any photographs and documents that are only stored digitally and keep them in a safe place where your personal representatives can find them.



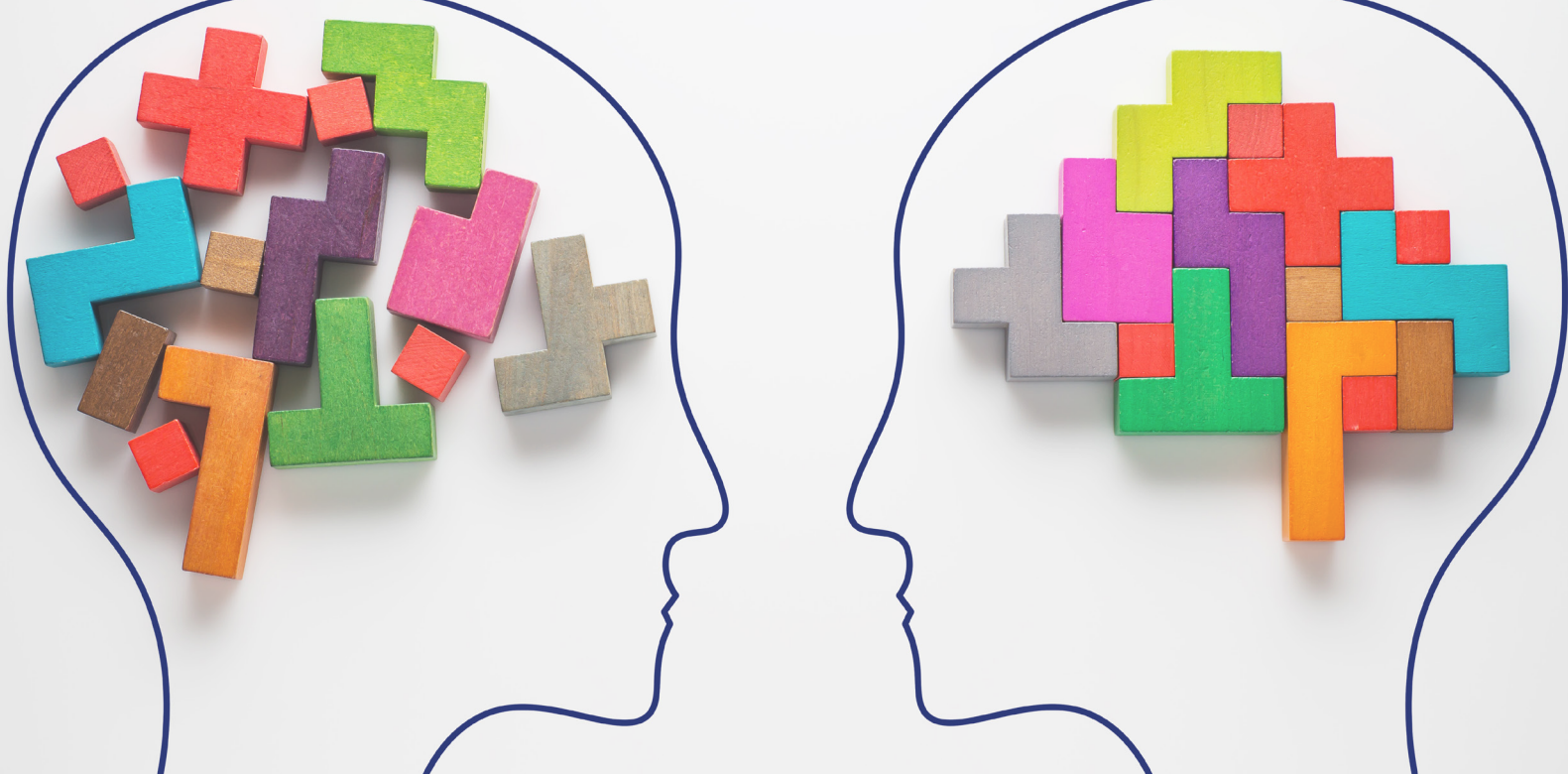
The Society of Trust and Estate Practitioners (STEP) has a special interest group for practitioners working with digital assets of which Louise Lewis was a founding member. Please contact Louise for further help and guidance.

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Mental pain is less dramatic than physical pain, but it is more common and also more hard to bear. The frequent attempt to conceal mental pain increases the burden: It is easier to say “My tooth is aching” than to say “My heart is broken.”
C.S. Lewis.

Divorce is often denoted as the second biggest risk to your mental health after losing a loved one. It can turn even the “strongest” person’s life upside down. Some people can cope better than others and recover after a short period of time, but for others, it can take a lot longer to recover and naturally, it not only affects their private lives, but also their working lives. In a recent study by Mind, where almost 44,000 employees were surveyed, 48% had experienced poor mental health in the past. Mental ill-health is the leading cause of sickness absence in the UK, costing an average of £1,035 per employee per year.

“Poor mental health” includes

our emotional, psychological, and social well-being. It affects how we think, feel, and act. It can range from feeling ‘a bit down’ to anxiety and serious depression. Some of the ways this can impact on work includes finding it difficult to concentrate, take longer to do tasks, changed behaviours like irritability, and perhaps conduct or timekeeping issues.

So, with 300,000 people with long term mental health problems losing their job each year, what can the workplace do to help?

Mental health as an issue for all staff should be at the top of every

organisation’s agenda. Employee wellbeing requires understanding, support and if necessary adjustments to the job during difficult times. One fact which all employers should understand is that employees may not be fully aware of their condition and the effect it is having, or may not want to inform employers of their difficulties, often out of fear of the consequences.

One issue where we see greatest impact is investing in mental health awareness training for line managers. Line managers can play a vital role in the promotion of positive mental health at work, but will need sufficient support and training. Managers should be confident in supporting staff



experiencing difficulties in their private lives, and should know how to approach conversations sensitively, encouraging openness without fear of any consequence. Open questions to employees showing understanding of the potential impact of divorce, and whether their health or wellbeing is suffering can be asked and open answers encouraged. This enables the organisation to understand the impact of the private life issue on the employee, and steps they can take to assist. Many employers now offer staff training for "Mental Health First Aiders" who are trained to recognise the symptoms of mental health difficulties, enabling support to be offered to those affected.

It's important also to document health conditions and discussions on reasonable adjustments; one common complaint is that 'everything was working fine until 'x' took over' – in many cases 'x' will not have been given any background history. Support needs can be lost, to the detriment of the affected individual.

It's important to stress that line managers and mental health first aiders are not expected to be experts on the impact of divorce, or of mental health needs, but being able to address any concerns sensitively is likely to increase morale and reduce the impact of

ill mental health on the workplace.

Employers can also assist mental health at work by promoting positive mental health through initiatives such as mental health campaigns to highlight the ongoing stigma surrounding mental health or using alternative therapies such as Mindfulness to promote the development of emotional intelligence and resilience, as we do at Freeths.

Organisations must think about the causes of workplace stress, how to reduce them and how to support staff. Tips include:

- **Not pressurising staff to return to work prematurely after traumatic life-events;**
- **Being given time to settle back into the workplace after a long period of absence;**
- **Making reasonable adjustments; and**
- **Avoiding sources of stress that might trigger symptoms.**

As employment law specialists, we are passionate about employee wellbeing and employer success. If you have any questions relating to the article or employment law generally, please get in touch.



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“If you think you are too small to make a difference, you haven’t spent the night with a mosquito.”

Reflections from a career in Philanthropy

Once upon a time, a history graduate had no career direction.

The 8 years that followed my graduation was quite a ride. It included life-changing volunteering placements overseas; two demanding jobs; a postgraduate diploma and a professional qualification; and leadership programmes in the UK and Japan.

Why this autobiographical snapshot? The most consistent question I encountered in that time was,

“When are you going to get a proper job?”

In almost 20 years, philanthropy has been a central focus for me. The Oxford English Dictionary defines it as: *“The desire to promote the welfare of others, expressed especially by the generous donation of money to good causes.”* The Institute of Philanthropy offers,

“The investment of private capital for public benefit.”

To me, definitions are a starting point. Philanthropy is one piece of a much broader puzzle. I think of it as people combining their values, influence, skills and money to change the world for the better. My career has involved seeking out, working with and securing the support of philanthropists for causes I’m passionate about. It’s an endeavour in facilitation; providing people with opportunities to achieve their goals.

Working in philanthropy has been humbling, enlightening and challenging. It’s taken me to places I never imagined going, enabled me to meet and learn from people from so many cultures, businesses and sectors.

Global wealth, inequality and its impact on the world of philanthropy is of course dynamic, challenging and full of opportunity. The Charities Aid Foundation estimates the total amount given to charity in the UK in 2018 was £10.1bn but the number of people taking part in charitable activities has decreased. In 2019, Forbes cited there are 2,153 billionaires globally and Remember A Charity found that 40% of people would be happy to leave a gift to charity in their Will, compared with 35% in 2008.

What’s more, the changing landscape around philanthropy reflects consumer and behavioural trends. The importance to donors and charities of transparency, authenticity and connectivity between them. People seeking more inventive, easier, quicker ways to participate. The expectation of knowledge at a stroke and pre-eminence of the quality of one’s experience.

In Richer Lives: Why Rich People Give - Dr Beth Breeze and Theresa Lloyd pointed to the importance of personal connection, transformation, fun, and involvement. In my experience, such principles are demonstrated every day within the world of philanthropy; and within shifting societal, technological, economic, and political contexts.

Just like every walk of life – the role of philanthropy and those, like me, who seek to work effectively within this sector must keep adapting. We must seek out synergy within our organisations and with those we invite to support us. We endeavour to convert awareness into action. We must use insight and investment wisely to create impact that is meaningful, sustained, and cost-effective. Above all, we must harness people’s interests and behaviours as a force for good.





With content of all kinds bombarding us around the clock - it's palpable how hungry people are for vision and demonstrable impact in addressing complex issues. As a professional fundraiser, I often see simple principles of philanthropy within many sophisticated and diverse business practices. The focus on inspiring people. Giving them opportunities to contribute. Engaging them to enrich their experience with you and in time, to encourage others to do likewise. Naturally, philanthropy at a significant level makes headlines and can mobilise others, whether via The Giving Pledge or by those people who give away millions in complete anonymity.

Moreover, philanthropy can connect individuals, businesses and societies. Throughout my career, I've been privileged to witness this first-hand. I would encourage you to reflect on your own, your business, its employees and customers' motivations. There will be opportunities to collaborate with a charity, capitalising on synergy between you. This could be philanthropic, giving money and influence. It could be strategic,

commercial and more.

Some may dismiss these reflections as simplistic idealism. Some may argue, like Rutger Bregman did at the Davos World Economic Forum that we should, *"stop talking about philanthropy and start talking about taxes."* Others may dismiss philanthropy as anachronistic altruism.

I would not suggest philanthropy is the greatest answer to the world's problems. Even so, I would argue philanthropy and its principles can help us bring us closer to a more equitable, productive and enjoyable world. As such, I believe we all have the wherewithal to create change worth striving for.

I am sure you've often felt there are just so many deserving causes out there. Embrace that. There are so many long-standing, new and exciting opportunities to give, do and learn something along the way.

So, will I ever find a proper job? Perhaps I may stumble upon one in the next 20 years, I may not. At least it should be an intriguing journey finding out.



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Tricky Executors - Can they be Removed?



When a person (also known as a testator) makes a Will, they can choose who they want to administer their estate by naming one or more people to be their executor. Often, people choose family or friends or sometimes a professional such as a solicitor. If a person dies intestate (without a Will) an administrator is appointed based on a statutory list of persons with priority, starting with a spouse and then children etc. Executors and administrators are collectively referred to as personal representatives ('PRs').

It is not unusual for people to find themselves saddled with the sometimes daunting task of collecting in estate assets, paying the deceased's liabilities and distributing the assets. All too often the task can become overwhelming, time consuming and complicated. The

administration can then grind to a halt, leading to hostility and conflicts. Equally, an appointed PR may have no interest in dealing with the administration. What can the PR or a disgruntled beneficiary then do?

With professional help, PRs can be removed (with or without consent) and replaced and the estate administration concluded. The main routes are as follows either prior to, or after a grant of probate (if there is a Will) or letters of administration (if intestacy):

Pre Grant of Probate

If a named executor does not wish to take office, they can refuse to accept the appointment so long as they have not already 'intermeddled' with the estate. Often, however, that has already

happened before the executor decides that they no longer wish to be involved. If an executor then agrees to retire or be replaced before the Grant is obtained, an application under s.50 Administration of Justice Act 1985 ('AJA') may be made. This is a relatively simple procedure and can be done with limited court involvement if all parties are agreed and a new and willing executor can be found.

If an executor will not step aside or is unfit to act, an application can be made under s116 Senior Courts Act 1981 to remove (or "pass over") him. Such an order will only be made, however, in 'special circumstances' where a judge considers that that is 'necessary' or 'expedient'. Special circumstances are not defined but they have been held to include cases where the executor is (i) in

prison, (ii) has disappeared and cannot be traced and/or (iii) has set up interests adverse to the estate.

It is clear from the case law that the court has a very wide discretion in deciding whether to pass over an executor. Applications should not, however, be made without good reason, particularly as the testator will have gone to the trouble of identifying specific people to administer their estate. Removal of one or more executors should therefore only be considered as a last resort when all constructive attempts by parties to rectify the situation have broken down. Simple arguments such as *"I know someone who could do the job better"* will not be sufficient.

Post Grant of Probate or Letters of Administration

Even once a grant or letters of administration have been taken out, an application to remove a PR can still be made to the Court under the court's inherent jurisdiction in s.50 AJA.

Generally speaking, it is difficult to remove an executor. A Court will only consider it if it is in the interests of the proper administration of the estate and would promote the welfare of the beneficiaries, which will depend on the relevant facts of each case. It is clear from case law that not every mistake or neglect of duty will persuade a Court to remove PRs. In cases of positive misconduct of an administrator, however, the Court will have no difficulty in intervening to remove individuals who have abused their trust.

Simple hostility or friction between PRs is not sufficient for the Court to order the removal of PRs, unless the applicant can demonstrate that the hostility is preventing the estate from being administered. Even if the PRs' actions do not amount to misconduct, the level of animosity and distrust between the PRs may mean that effective administration of the estate is unlikely to be achieved, as a result of which a court will act to remove the executors and in some instances replace them with a professional administrator.

PRs also need to be aware that if they act unreasonably in refusing to be replaced they are at risk of being ordered to personally pay the costs of an application to remove them.

A word of caution...

Think carefully before you apply to have PR removed. The best course of action is nearly always one in which the parties agree a solution between themselves, as this will save both time and costs. Should you be faced with a tricky executor, either as a co-executor or a beneficiary and want to discuss your options please do not hesitate to contact us.



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Reputation Management

To tweet or not to tweet: how to avoid being sued for social media defamation

Managing reputation has traditionally involved taking the fight to mainstream media about defamations and invasions of private and family life. This is because the media have historically been the gatekeepers and publishers of newsworthy content.

However, the evolution of social media has transformed the way content is produced and by who. Business leaders can now shape and publicise their own business and personal image on social media such as Twitter, Facebook and LinkedIn on an unprecedented scale.

The advantages of this unfiltered line of communication are obvious. If managed correctly, it can establish a powerful connection to a public who value the authenticity of hearing directly from the individual who matters in their industry. It can enhance and protect reputation, and be a driver for business and personal profitability.

The disadvantages – which were once largely the preserve of mainstream media – cannot be ignored however. CEOs, directors and others who embrace social media should take care in not leaving themselves exposed to defamation complaints. Often, these complaints will be played out on social media and the risk of losing hard-earned reputation because of them is real.

To help avoid defamation complaints concerning your social media content, we set out our top 5 tips below.

1. Take stock

Under the law, you will potentially be liable as a publisher of third party defamatory content if you merely retweet, share or 'like' it, just as if you had created and posted it yourself. The first rule is therefore simple: take stock before publishing content. Ask yourself what the content may mean to an 'ordinary reasonable reader' who does not have any

special background knowledge. If you believe the meaning taken from the content is likely to lower a person/business in the eyes of others generally, this ought to be the first red flag.

2. Control meaning and context

The meaning of content in its context is a fundamental issue in a defamation action. In a string of recent *Twitter libel* cases, courts have been careful not to over-analyse the meaning of a Tweet. They have accepted the meaning a reader will receive is likely to be 'impressionistic,' because people scroll through their feed quickly.

Similarly, this April, the Supreme Court in *Stocker v Stocker* said the meaning of a Facebook post should reflect that Facebook is a casual medium in the nature of conversation.

These rulings are helpful in moving the meaning away from





When is a hurdle **not** a hurdle?

We know what it's like. Really, we do. You're buzzing with a new idea – caught up in the design of the code, or the mechanism or the service delivery. You know that what you've come up with is something unique, something that could be really valuable. You probably, deep down, know that you ought to be protecting this invention of yours. But intellectual property is not an easy subject – it's hard to work out exactly what you can do even in this country, let alone in the territories in and outside Europe where you think that your market is to be found. It's something that can wait, you tell yourself, and you turn back to your designs.

Roll forward a few months. Working with a few close friends you have really refined your idea into something commercial, something that you are sure is going to make you money. You're talking to someone at a party and they ask you whether you've signed an agreement with your

friends about how any business is to be owned and (embarrassed that you've never even thought of it) you say that you have. The truth is that you're worried about upsetting your friends who are contributing all of that time and effort for nothing. It feels like a conversation that is going to be a lot easier to have further on down the line, once you know whether or not you're all going to make a success of it.

And before you know it, of course, success is right around the corner. You've got a brand name, and a website and perhaps you've even got a few glossy brochures, talking about who you are and what you are able to do. Preliminary conversations with some possible customers have been encouraging, and suddenly, slightly before you feel ready for it, one of them says that they want to buy. Maybe you should have been more prepared for this, but a quick search online and you find someone else's terms and conditions and with

a few quick changes they really look quite professional. Your first customer seems to think so, and before you know it you're a real business, and money is starting to come in.

At this point, there's a little bit of a nagging voice at the back of your head, isn't there? You always promised yourself that once you started making money there were things you were going to do. All that good advice from well-meaning friends and contacts over the years, about getting the business onto a proper footing, about documenting all of those verbal agreements and implicit understandings between you and your colleagues. But, somehow, the money is needed for other things, not least because the first customer is happy and tells other people and now you have half a dozen customers all expecting delivery and money and the time to think about this big picture stuff is in even shorter supply.

So it goes on. The privacy notice copied verbatim from the site of a larger competitor because, well, they must know what they're doing. Some larger customers start sending you purchase orders and, technically, that means that your contracts with them are on their terms rather than yours but the money is too good to be able to say no. Employment arrangements are dealt with casually to keep the "vibe" of your original group of friends. Pension requirements are overlooked and, in tight times, money that's been set aside for VAT might even get dipped into for operating costs. A vicious circle begins as you have to put more and more of your own money in, just to stay afloat.

It doesn't have to be like this of course. Some businesses survive and thrive despite their lack of rigour. But when the time comes to sell, to recoup that investment of time and money that you have made, all of the shortcuts and the procrastination will be laid bare on due diligence, and the value that a prospective buyer sees in your company will be a lot less than what you put into it, a lot less than it could have been worth.

So how can all of this be avoided? The starting point is in recognising that all of these obstacles that you encounter as you start and grow your business are just as much a part of the process of being an entrepreneur as having the ideas, as finding the customers, as making the sale. Recognise that each of these steps is a building block to a more stable and secure business, for now and, ultimately, for sale. Understand that what you think are hurdles are actually rungs on a ladder that leads inexorably towards business success.



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If you would like to discuss any of the points in this article, please do not hesitate to contact me.



Will Richmond-Coggan is a director at Freeths, specialising in data protection and corporate reputation. He regularly works with colleagues across our departments to help new and growing businesses to navigate their compliance obligations and build a secure platform for future growth and eventual sale.

The Challenges of Leadership and Digital Disruption

The pace of digital disruption has left 50 per cent of businesses and public sector organisations fearful or worried that their organisations will not be able to keep up with what is still to come over the next five years.

As technology continues to transform business models, a new breed of corporate leader is emerging who is digitally savvy and assiduously curious. Rather than fearing change and obsessively trying to retain control, the most accomplished CEOs accept that for an organisation to compete globally and attract and retain the best talent, they must be highly collaborative, operationally focused and ruthlessly strategic.

It is not enough for businesses to simply be aware of digital advance they must interpret what these could mean for them and how they might benefit. Senior executives of large incumbent organisations have many legitimate concerns and questions about the opportunity that digital presents.

Whether due to unclear monetisation models, baffling market valuations, inflexible IT systems or never-ending jargon and predictions, digital can certainly seem disruptive, and not always in a positive sense.

Despite a sea of uncertainty, it is becoming evident that organisations that successfully leverage digital technologies for new growth operate with a different set of rules and capabilities, and see a greater return also.

Below is a list of seven critical management concerns:

1. Sense and interpret disruption

Merely sensing change is not enough. The trick is to interpret what these changes mean to the business and, more importantly, when they will have an impact. If business leaders are unable to interpret these change signals, they are no better placed than those who did not see change coming. Research shows that half of business leaders expect competitors to change at least some part of their business model.

The key question is: What will these new business models be, and when will they become relevant?

2. Experiment to develop and launch new ideas more quickly

Ask most entrepreneurs about how they innovate and they may look nonplussed. Most digital

disrupters do not see themselves as “*innovating*”, per se.

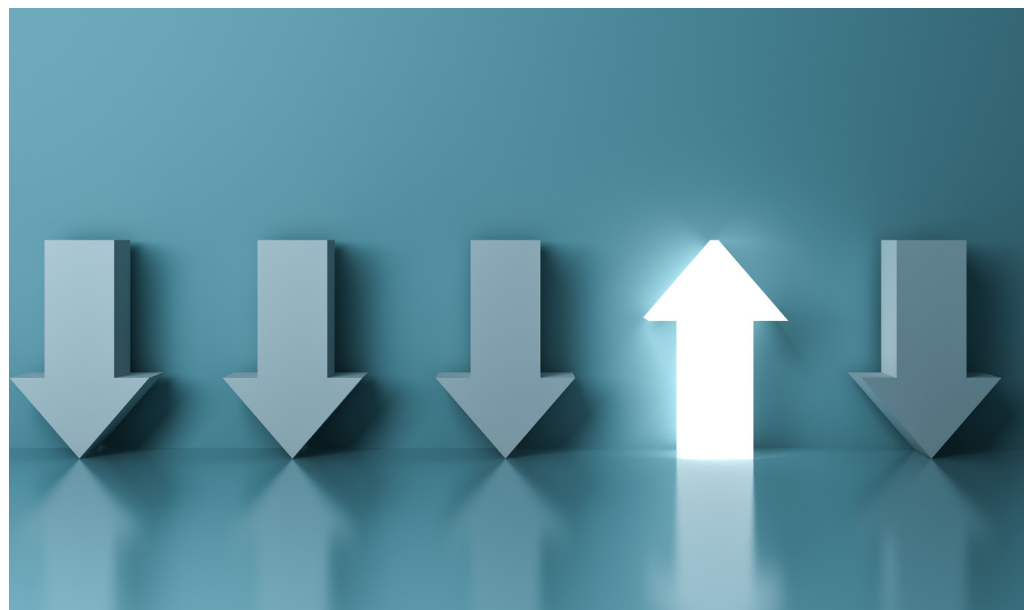
In their minds, they are solving specific customer problems the best way they know how. As such, innovation is a consequence, not a goal.

Solving customer problems requires two actions: experimenting more and learning to self-disrupt. Digital technologies enable a new way of experimenting at almost an unlimited scale.

3. Fully understand and leverage data

Businesses hold almost unimaginable amounts of data, and are grappling with how to use it to develop new products and services that bring new value to their customers.

Mastering the art of exploiting data, not only by turning it into useful information, but also by finding new ways to monetise it, will be fundamental to how businesses run in the future.





4. Build and maintain a high digital quotient team

While IQ and EQ measure intellectual and emotional intelligence respectively, the time is ripe for “DQ” - a measure of the digital quotient (or digital savviness) of organisations. As companies evolve their digital capabilities, they need to measure and rapidly build their teams’ DQ - not least among their senior members.

Some organisations are pursuing a strategy of “*acqui-hiring*” - buying the right skills through acquisitions of technology start-ups, or by establishing formal relationships with the start-up community.

5. Partner and invest for all non-core activities

One of the characteristics of effective digital leaders is their intuitive understanding that the journey is not one to be undertaken alone. A recent report that I read indicated that companies will be increasing their partnerships and alliances as they attempt to boost digital growth in the next three years.

Whether looking for new application programming interfaces (APIs), corporate development or business development partners, aligning with an ecosystem of partners is critical to digital progress.

The more they invest in others, the more organisations extend the team that is as vested in their success as they are.

6. Organise for speed

Two elements are essential for businesses to be organised for speed: according to “digital leader” aspirants, the first is CEO-level support and the presence of a dedicated central team to drive new digital growth.

The second is a team of “*fixers*” - those at the centre of operations who are independent, respected and can draw on the right skills at the right time.

Many organisations are establishing the role of chief digital officer (CDO) - a sound choice when that person also has the power to drive change and has responsibilities that are distinct from the chief information officer (CIO), chief risk officer (CRO) and chief marketing officer (CMO).

New structures are emerging to

help organisations respond more quickly to digital change. Banks have partnered with accelerators that help bring new ideas, while many retailers have set up venture funds to access disrupters.

Other companies have acquired digital teams to enhance their internal capabilities, often funding entrepreneurs who know little about their industry to create a start-up that could seriously hurt their respective businesses.

This counterintuitive process can reveal some implicit industry assumptions that are holding back the business.

7. Design a delightful customer experience

Customers’ primary motivation for repeat business is the quality of their experience. Digital technologies have reset expectations here.

Today, a banking customer using a mobile banking app does not compare it with apps from other banks, but against their best mobile user experiences for usability or functionality, whatever the industry.

It's important that organisations put the customer at the heart of their business and stand in their shoes when designing beautiful customer experiences.

Digital technology has already broken down the old, familiar business models but the effect it will have on the future of organisations' operations as it evolves remains significant and unknown.

So, CEO's and business leaders are rightly concerned about keeping up with speed and objectives.

Embrace the change, or get left behind

While executives do not necessarily need to be literate in coding, it is imperative that they understand the role that digital technology plays in a modern organisation, especially if they are to realise the benefits of optimised productivity, efficiency and responsiveness to customers. In fact, nine out of 10 senior decision makers say digital technology is essential to a business's future success.

Meeting customer expectations before someone else does

Delivering good customer service has become more challenging due to an overwhelming consensus that digital, and a hyper-connected society, has changed customers' expectations. Business must adapt the way they do things to keep up.

Business to business organisations that may not have originally seen these consumer-focused demands as relevant to them are also feeling the pull, increasingly citing digital media as being very important from the perspective of recruiting talent, engaging

colleagues and disseminating and sharing information across teams. As a modern day leader it's critical to understand not only what technology exists, but how to utilise it to satisfy consumers' and employees' ever increasing expectations to drive a competitive advantage.

A modern workforce is a collaborative workforce

With the increase in the use of digital tools for working, boundaries are blurring and businesses are becoming more agile. To enable collaborative working, CEOs are turning to their CIOs, CROs and CDOs to make use of technology to achieve this.

By taking a more collaborative approach with all leaders in the business, digital can be used to transform business processes. By reaching out to the wider team, the CEO can unearth processes and areas of the business that could become more efficient and effective through digital technology, such as customer service and workflow management.

Digital is an enabler, not a disrupter.

Having acknowledged that digital technology will play a central role in future success, business leaders cannot afford to show fear of, or reluctance to implement it. Instead they must lead by example, embracing technology with a clear view of the potential advantages to be unlocked.

Using technology to meet the rising expectations from the consumer is a must in today's marketplace. Business leaders need to first understand what customers expect and then make best use of the

available technology to meet their customers' needs. By embracing technology and using it in an innovative way, business leaders will be better positioned to maintain a competitive advantage by driving innovation, productivity and efficiency throughout the business.

Finally, when leaders move toward improving their observable behaviors, they have the extraordinary ability to positively influence employees to willingly become engaged. That's a powerful investment that pays dividends not only in developing good people, but by directly affecting the organisation's bottom line.

My conclusion is that leadership in today's world is a balanced mix of universal characteristics and digital leadership traits which has the potential to guide us through years of transformation with optimism and idealism. Technology continues to prove that it can be used for the benefit of mankind, but only if we set sail on the right course and with smart individuals that make our journey, progress, and performance so much worthwhile.

As Robin S. Sharma once said:

"By seizing the opportunities that disruption presents and leveraging hard times into greater success through outworking/ outinnovating/ outthinking and outworking everyone around you, this just might be the richest time of your life so far."

Geoff Hudson-Searle

Director

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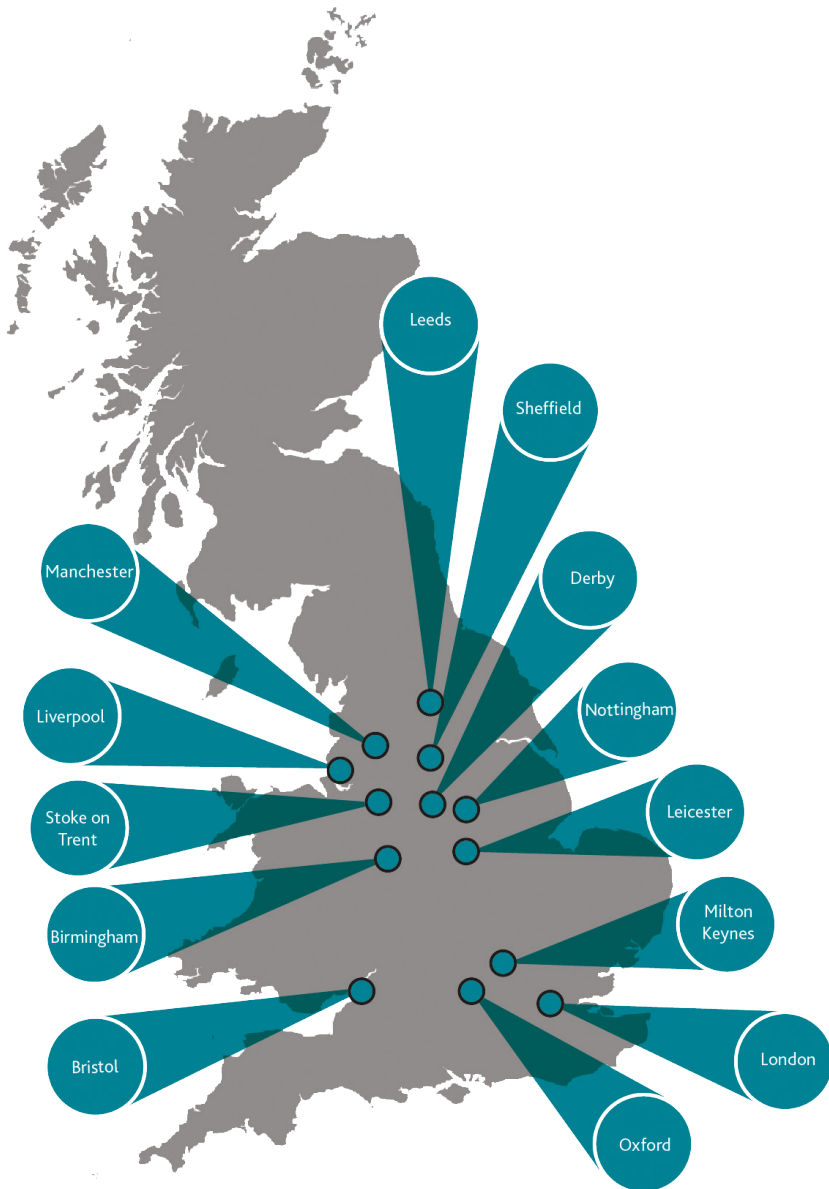
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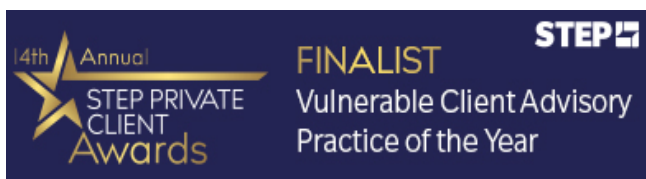
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