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Community Protection Notice used where Japanese Knotweed not controlled



Patricia Kempson
Partner

The Anti-Social Behaviour, Crime and Policing Act 2014 gives local authorities (and the police) the power to serve a community protection notice (CPN). CPNs can be served on individuals or bodies acting unreasonably, and who are persistently or continually acting in a way that has a detrimental effect on the quality of life of those in the locality.

The powers granted under the legislation are flexible and the recent successful prosecution by Bristol County Council (BCC) has shown how local authorities can utilise the law to take action against property companies that fail to control the growth of invasive plants on their land. BCC successfully prosecuted MB Estate Limited for detrimental growth of Japanese knotweed on its property. The company failed to respond to the remedial requirements of a CPN and was consequently fined £18,000 by the Magistrates' Court.

Landowners with Japanese knotweed growing on their property should be wary that unless the growth of the plant is controlled or prevented, the local authority could serve a CPN requiring action to be taken. Breach of any requirement of a CPN, without reasonable excuse, is a criminal offence, subject to a fixed penalty notice or prosecution.

For further information contact Patricia Kempson on 01604 463352 or [click here](#) to email Trish.

Faster Returns Required in 2019



Carolynn Davies
Senior Associate

Regulations have recently been made that reduce the SDLT filing and payment window from 30 to 14 days from the effective date. These regulations will come into force on **1st March 2019**.

As a reminder, generally the "*effective date*" is the date of completion however, where a contract is "*substantially performed*" before completion, the effective date is the date of such substantial performance, eg occupation.

The forms and information to be provided have been modified and simplified slightly and it will now be even more important to ensure that all information required for the return is verified, provided and approved within this reduced filing window in order to avoid penalties.

For further information please contact Carolynn Davies on 0207 831 8888 or [click here](#) to email Carolynn.

Court of Appeal upholds enforcement notice requiring reinstatement of listed urns



Gemma Dudley
Senior Associate

The Court of Appeal has upheld a listed building enforcement notice requiring the reinstatement of a pair of limestone gate piers and lead urns, even though the urns have been sold and exported to an unknown buyer. The landowner had challenged the notice on the ground that the items were not "buildings" and therefore no listed building consent was required for their removal. However, the urns appeared on the listed building list and the Court held that it was not open to the planning inspector to question the validity of the listing of the items as listed buildings. This case is a stark warning of the sensitivities of listed buildings and the need to exercise caution in undertaking works to them.

For more information contact Gemma Dudley on 01223 532747 or [click here](#) to email Gemma.

Property Owner Liable for Misconnection under adjacent Alley



A property owner was served with a s59(1) Building Act 1984 notice for failure to ensure that drainage from his property was adequate. The property was developed and connected to the waste water pipe. This however, connected not to the foul drainage network but to a surface water drain under an adjacent alley. Although this connection was not located on the property or indeed within its curtilage the property owner was served with a Building Act 1984 notice. This required him to carry out the necessary rectification works at his own cost to ensure water was adequately conveyed into an adequate sewer or lateral drain.

The owner appealed on the basis that drainage from his

Sunita Punj
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property was satisfactory and it was the connection off his property that was at fault. The Court held that this did not prevent notice being served and the court was entitled to consider where the waste pipe was discharged. This case demonstrates that although the misconnection was not on the property and may have been the fault of the water company or a third party a property owner can still be served with a s59 notice and be required to rectify the position.

For further information please contact Sunita Punj on 01908 247010 or [click here](#) to email Sunita.

All I want for Christmas... is to win a £265,000 negligence claim against my ex-friend



Joe Taylor
Senior Solicitor

Basia Lejonvarn, a US-qualified architect, helped her friends on a gratuitous basis in a re-design /landscaping project relating to their garden. She, amongst other things, produced drawings under her professional name to ensure the project was priced and constructed accurately. When things went wrong, despite not having charged any professional fees, Lejonvarn found herself defending a claim for £265,000 for breach of duty of care from her (presumably) former friends.

Lejonvarn's services reached beyond the impromptu "words of wisdom" that one may expect from a suitably qualified friend over a mulled wine. However, the case made it clear that when individuals offer services knowing they will be relied upon, this assumption of responsibility triggers a duty of care. Although Lejonvarn had no contractual obligation to provide services, she still had a duty to act with reasonable skill and care in performing the services she chose to undertake.

Joe Taylor and Danielle Eley look at this case in more detail in their article: **'All I want for Christmas... is to win a £265,000 negligence claim against my ex-friend: Claimants lose war in claim against architect friend who provided them with free advice.'**



This Bulletin is produced by Hewitsons for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area.

Advice should be sought from a solicitor in the Real Estate Team at Hewitsons in respect of any information contained in this bulletin that affects any matter with which you may be concerned.

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