
Explorer

Stephens
Scown

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Leisure and tourism newsletter

Polmarter - a recipe for success



Feature article



“We want our park to be brilliant. We live and breathe it,”

says Becki Osborne of Polmanter Touring Park in West Cornwall. We caught up with Becki to find out the secrets of the park's success.



Polmanter is a five star touring camping and caravan park, set in stunning surroundings overlooking St Ives. In the last year it has added to its list of awards by scooping the gold award in the Touring Camping and Caravanning Park categories of both the Cornwall and South West Tourism Awards.

A family affair

Polmanter is a family business and has been run by the Osbornes for 50 years. Originally a dairy farm, which opened up one field for camping, it has evolved and expanded over the years.

Becki helps husband Phill to run the business, as well as working part time as a doctor. The couple live on-site, with their two children aged 11 and 8, and Phill's father John lives at Polmanter too.

"Living in the centre of the park we are totally absorbed in it all. We use the bar and restaurant and swim in the pool. That matters because it means we can see things from our visitors' point of view. It is crucial to us that our standards remain high, and if anything isn't up to scratch, we're able to spot it straight away and sort it out," says Becki.

It is a hands-on job. *"Phill leads by example and will get stuck in with cleaning the toilets or checking in guests as needed. The team works so well together and I think it helps that we wouldn't ask anyone to do something that we wouldn't be willing to do ourselves,"* adds Becki.

In fact Polmanter's staff, many of whom are seasonal and come back year after year, are one of the reasons for the park's success according to Becki. *"We are so lucky to have such a brilliant team. They know our guests well and understand the standards we expect."*

Invest for success

The Osbornes are keen to keep their park one step ahead of the competition and to do that they have reinvested heavily in the facilities on the site.

One of the most recent investments for the Osbornes has been improving accessibility on the park. Before the start of the season last year they redeveloped the shop and reception area, with accessibility in mind. Now desks are at the correct height, there are powered doors and level access. They also added two luxury self-catering family apartments, one of which is fully accessible.

"Improving accessibility was really important to us. We wanted to bring our reception and shop up to the level of the other parts of the park, to ensure we are as inclusive as we can be," says Becki. Explaining why investing in the site is so important Becki says: *"We would love our children to take over one day, so to ensure we have a great business for them we have invested a lot in the park. Modern campers have high expectations. They want excellent facilities, high quality food and all of the little details taken care of."*

As well as an outdoor swimming pool, bar and restaurant serving home-cooked food, tennis courts, mini golf and playing fields, recent developments have included the installation of new play areas and an indoor soft play area.

"Our kids were really involved in choosing the equipment and had great ideas for what we should include," says Becki. Starting a family gave Becki and Phill a new perspective on the business. *"We love camping ourselves, and going on camping holidays with our own children opened our eyes to more ideas of how we could improve Polmanter."*

Recognising that many young children don't like showers, the Osbornes have introduced baths for children. They are at waist height to make bathing sandy children after a day at the beach less back breaking. For slightly older children, large family shower rooms have been installed with space for parents and children to shower and change together. Getting a dog also gave the Osbornes new ideas to make the park even more welcoming for four-legged friends. Polmanter now has a dedicated shower for dogs, a doggy exercise field, plenty of dog waste bins with supplies of bags, and secure places to tie up your dog's lead outside the shower blocks.

Stephens Scown's head of leisure and tourism Toby Pool has been impressed with this constant drive for improvement and seeing things through their visitor's eyes: *"With such a stunning location and loyal visitors who return year after year, it could have been easy for the Osbornes to rest on their laurels. But instead they have looked for ways to innovate and improve – from their own shuttle bus into St Ives to underfloor heating in the shower blocks. Continuous improvement is not always easy, and requires time and financial investment, but it is sure to pay off for them now and in the longer term."*

It's the little things that matter

Does Becki have any advice for other tourism businesses? *"I think attention to detail should not be underestimated. I'm a perfectionist by nature and I like things to be 'just so'. Think about the little things you can do that add up together to make a big difference to your visitors. For us, things like frequent checks to make sure that the facilities are spotless, allowing campers to book a particular pitch, and having a night warden to ensure any night owls keep the noise down are really appreciated by our visitors."*



**For more information on Polmanter Touring Park visit www.polmanter.com
Stephens Scown sponsors the Touring Camping and Caravanning Park category of the
South West Tourism Awards.**

Travel industry braces for another data protection fine

Following on from the Information Commissioner's Office (ICO) announcement on 8 July that it is imposing a fine of £183 million on British Airways for its data breach in June 2018 the ICO has now announced on 10 July that it intends to fine hotel chain Marriott £99.2 million for its data breach which was uncovered last year.

Both of these investigations by the ICO show that the ICO are not going to be sympathetic to organisations that do not have robust GDPR compliant policies and processes in place even in cases where organisations have been the victim of fraud or illegal hacking. Whilst the fines for these two breaches are huge, and the ICO have likely chosen these cases in order to both generate revenue and grab the headlines, the calculation used to come to these figures is the same for everyone.

The ICO have the ability to fine up to 20 million Euros or 4% of annual turnover (whichever is higher) where a breach has occurred and, simply put, the worse the breach (e.g. number of people and type of data affected) and the attitude of the company (e.g. a lax approach to security, failure to provide basic awareness training) then the higher the fine that will be imposed. The same principles apply to all businesses; and while no business wants to be subject to a percentage of turnover fine, the media will focus on the attention grabbing big numbers that invariably come from the bigger businesses. Marriott and BA will invariably ask the question "can we weather this storm" and their sheer size may mean that they can, but the same may not be true for SMEs.





What was the Marriott data breach?

Marriott International bought Starwood Hotels and Resorts Worldwide in 2016. It was uncovered that approximately 339 million individuals details had been accessed following a hack of the Starwood reservation database. This data included names, addresses, email addresses, passport information, date of birth and gender, along with other data pertinent to the identification of the booker. The breach goes back to 2014 but was only discovered in 2018.

What happens now?

At the time of writing the ICO has simply indicated its intention to fine Marriott £99.2 million so this may not be the final figure.

Marriott will now have an opportunity to make representations to the ICO as to the proposed findings and the proposed fine. The ICO will then consider the representations made by Marriott and other data protection authorities across Europe whose citizens have been affected by the breach before it makes its final decision.

What can I do to avoid being hit like BA and Marriott?

GDPR compliance applies to all businesses whatever their size. If you have adequate technological and organisational protections in place the ICO is going to be much more sympathetic and lenient if you are the victim of fraud or hacking. These two cases show the importance of ensuring any third party IT providers or reservation systems have adequate security in place.

What if I acquire a new business like Marriott did?

Of particular interest in this investigation is the ICO Commissioner Elizabeth Denham's views on the fact that Marriott had acquired the Starwood brand stating "The GDPR makes it clear that organisations must be accountable for the personal data they hold. This can include carrying out proper due diligence when making a corporate acquisition, and putting in place proper accountability measures to assess not only what personal data has been acquired, but also how it is protected". This case therefore acts as a reminder of the importance of not only looking at data protection and security in the due diligence process when acquiring a business but also ensuring any flaws uncovered during the due diligence process are followed up and rectified promptly following completion.

If you have questions about your organisation's data protection compliance or are thinking of buying a business and are concerned about data protection compliance please contact our dedicated data protection team on 01392 210700 or email DataProtection@stephens-scown.co.uk



Achieving More for Less – Savings from Efficiency



There's a global debt of gratitude to Greta Thunberg and our very own favourite nonagenarian, Sir David Attenborough for achieving what successive governments and commentators have failed in since initial concerns about climate change were first muted over 50 years ago.

The need to act is poignant and pressing yet the mission can appear overwhelming. There are however quick, affordable options open to all to aide the journey to energy efficiency.

Renewable energy company Beco is encouraging hospitality venues to take an innovative step into sustainability. Devon-based Beco is offering businesses an opportunity to try voltage optimisation (VO) with no upfront investment.

'Leisure establishments are high energy users yet many still treat power as a non-controllable expense,' says Beco managing director, Simon Nicholls. 'VO is a simple way to reduce both carbon emissions and costs. I believe it should be as much a part of a hotel, restaurant or pub's eco strategy as recycling or banning single-use plastics.'

Voltage optimisation works by reducing incoming voltage (240V) to European levels, which are lower. It is a straightforward and effective way to lessen energy consumption, bills and CO2.

Restaurants use up to 3 times more power per square metre as other businesses occupying a similar footprint. Not only restaurants and hospitality but the wider leisure industry face crippling energy costs. Substantial CO2 that results is something no business concerned with the environment, or their own CSR, can afford to ignore. The focus is firmly on decarbonising the planet.

Beco, which is 40 years old this year, offers a complete range of sustainable energy options, but is throwing the spotlight on voltage optimisation with its free equipment supply and installation deal.

A growing list of hospitality businesses are signing up, from celebrated Cornish eco-hotel and spa The Scarlet to visitor attractions such as stately homes, hotel and pub chains. Feedback is enthusiastically positive, with one Devon hotelier recently saying that "hotels simply can't afford not to do it".



Energy audits and VO surveys are offered free of charge and without obligation. Please get in touch with BECO via telephone 01803 866329, email info@becouk.com or visit their website www.becouk.com

How prenuptial agreements can protect businesses transferred to your children

More and more couples are choosing to take control and regulate what would happen financially if they were ever to divorce. Anyone with a significant disparity in wealth entering a marriage, or anyone with a business to protect should consider carefully whether a pre-nup would offer the reassurance they need.



Since 2010 the law on pre-nups has been clarified and their weight has increased significantly. First of all it is important to understand that such an agreement doesn't have to happen before a wedding – a "post-nup" has exactly the same effect, so if an adjustment to wealth is going to happen during a marriage an agreement can still be drawn up to protect it.

The court's normal starting point on divorce is a 50/50 division of a couple's assets. A correctly drafted pre or post nup agreement changes this so the starting point becomes the terms of the agreement. This can make a huge difference to the outcome of a divorce.

Some common examples of where pre and post-nups are used are:



Succession and inheritance tax planning

If you are a restaurant or hotel owner thinking about handing on the business to the next generation as part of your inheritance tax planning you may feel strongly about keeping the business in the family and could have concerns about potential claims of a spouse of one of your children which prevent you parting with your share tax-efficiently. It is worth considering requiring your children to enter into a pre-nup (or a post-nup if they are already married when you plan to make the gift) with their partner/spouse before you adjust ownership.

The agreement can ring-fence the business from the assets shared on divorce, subject to the reasonable needs of the spouse being met, to minimise the impact of a divorce and protect the business for future generations.

Second marriages

The number of people getting married for the second time is on the up. For some couples one or both of them may have built up significant assets or business interests before their second marriage and may want to preserve those to pass on to children from their first marriage. If this second marriage breaks down, potentially all of the couple's resources could be considered by the court when deciding on the financial settlement. It is advisable to enter into a pre or post-nup ring-fencing pre-acquired assets from what would be shared on divorce.

In order to be followed by a court, pre or post-nups must be entered into freely and with a full understanding of the terms of the agreement and the provision for a spouse within the agreement must be considered fair. It is therefore important to seek early independent legal advice from a solicitor with experience in this field.



Sarah Atkinson is a partner in the family team at Stephens Scown. To contact Sarah, please call 01872 265100 or email family@stephens-scown.co.uk

A growing garden centre business

Stephens Scown's leisure and tourism team has helped a Barnstaple garden centre expand its business.

At the end of last year our client, St John's Garden Centre in Barnstaple bought the Wyevale Garden Centre at Ashford. The site was up for sale as part of the sell-off of the entire UK portfolio of Wyevale Garden Centres. The 148 garden centres owned by Terra Firma under the Wyevale Garden Centres brand are a mix of freehold and leasehold and are being sold off individually, giving smaller operators like our client a chance to expand.

The Stephens Scown team included head of leisure and tourism Toby Pool, along with Laura McFadyen, who advised on employment issues. Simon Morris from our corporate team and Jamie Bartlett from real estate team also worked on the deal. Stephens Scown also advised Lloyds Bank who provided the funding.

Toby Pool said: *"The best part of my job is helping clients to grow and expand their businesses. I'm sure the fantastic team at St John's Garden Centre will make a huge success of this new venture."*

At the time of the deal, Nick Oliver from St John's Garden Centre said: *"We will make improvements to all parts of the centre, starting with the restaurant and bringing a similar offering of food and fare as we would at St John's Lane. We are pleased to be extending our reward card scheme into this store as well."*

Commenting on how things are going he said: *"Now we are nearly 12 months down the road, the Ashford Garden Centre has been out performing our trading forecasts by a very large margin and we appreciate the work that Toby and his team at Stephens Scown did in getting all the details right."*



For more information on
St John's Garden Centre visit
www.stjohnsgardencentre.co.uk



BE HEARD, GET NOTICED - MAKING PR WORK FOR YOU

Sue Bradbury

It's a noisy, cluttered world out there and for a company or organisation to get noticed, it needs to come to the attention of potential customers and clients – in the right way.



Raising awareness of a product or service amongst the consumer sectors it is aimed at is crucial. Careful thought needs to go into thinking about who those people are and how best to build a relationship and loyalty by communicating with them effectively. If we can reach them in a variety of ways, so much the better - online, offline and in person.

Public relations (PR) is all about using communication to enhance reputation. If we read and hear positive stories about a brand that, for whatever reason, is of interest to us, we are far more likely to buy into it. Someone looking for a job in a care home, for example, is probably going to be drawn to one that they've seen good things about in the press. Similarly, a restaurant owner looking for a food product might well be attracted by a report of one winning awards or achieving excellence in other ways.

Busy as we all are, you only have to look at a train carriage full of passengers all focused on their phones to know how much content is being absorbed these days. Whether we're checking our social media platforms, reading a blog, watching a video, looking at an app or browsing a website, stories in whatever form they're presented fascinate and engage us.

Nor should print be discounted.

Newspapers and magazines might have ceded some ground to the instant gratification of the internet, but they are still powerful tools in raising awareness and sparking conversation.

Every business needs to decide who it wants to communicate with (and that's not just customers – staff, suppliers and other stakeholders are equally important too) and how best to reach them. Nor is it enough to make an impact once and then disappear. Most of us have a lot going on in our lives so, if you want to make an impression, stay visible (but not overly intrusive).

PR professionals are (or should be) expert communicators. With a well-thought-through plan, they can help an organisation reach the people it wants to reach, boost the bottom line and, in a crisis, protect reputation.

In short they can, and do, make a difference.



If you wish to discuss how PR can help your business please call Sue Bradbury on 01326 567184 or email sue@sbpr-ltd.com



The employee who got away with it, despite being caught on CCTV!

Thousands of employers install CCTV at their premises thinking that they can use the footage as they see fit to protect their business. However the law is not that straightforward, as we will see in the scenario opposite, and there are things businesses need to have in mind.

The manager of the hotel, Jason, is approached by an employee, Kylie, who wishes to raise a grievance against her line manager, Harold. Kylie claims that Harold approached her at the end of her shift and swore at her for breaking a plate. Kylie claims that after berating her, Harold said "just get out of here" and pushed her. Harold is denying the incident entirely and claims that Kylie came to him upset about a breakage earlier in the evening and was rude to him. Harold says that he was tired and having tried to console Kylie he eventually just snapped at her to go home.

Jason knows that if the incident occurred in the staff room to the side of the bar, as Kylie alleges, it would have been caught on the bar's CCTV. The footage is obtained and viewed by Jason. The footage largely supports Kylie's claims and Jason decides he has seen enough. He invites Harold to a disciplinary hearing to be heard by Madge. Kylie is also invited to a disciplinary hearing as the footage shows she is not as innocent as she made out and was verbally abusive to Harold. The only evidence relied upon is the CCTV.

Trouble at The Blue Sky Hotel

The Blue Sky Hotel has CCTV in the public areas, including the bar area. The CCTV system is visible but there are no signs in the area covered by the CCTV to bring a person's attention to it. The entrance to the hotel has a sign confirming that CCTV is in use and states the purpose is for the protection of the residents. The only knowledge most employees have of the CCTV is the signs found at the entrance to the hotel.

Harold and Kylie are in shock that the incident was recorded on CCTV and object that Jason and Madge have viewed the footage for the purpose of watching the incident. Their complaints are ignored and Madge decides that based on what she saw in the footage, Harold should be dismissed for gross misconduct and Kylie should receive a first written warning.

Kylie resigns claiming her trust and confidence in The Blue Sky Hotel has been destroyed.

One month later The Blue Sky Hotel receives claims from both Harold and Kylie. The tribunal finds in favour of them both, finding that their dismissals were unfair, as the evidence relied upon was unlawful and the use of it infringed Harold and Kylie's rights.

The compensation awarded is reduced for both Harold and Kylie due to conduct contributing to their dismissal but The Blue Sky Hotel is left with its own legal bill and some compensation to pay.

So where did it all go wrong?

The Blue Sky Hotel is entitled to monitor its employees but there are risks associated with doing so including:

- *breaches of data protection law;*
- *breaches of an employee's human rights; and*
- *undermining an employee's trust and confidence in their employer.*

If the above risks aren't addressed then the monitoring may be unlawful and could undermine the fairness of a dismissal, as happened in the scenario above. Failing to notify employees of monitoring can cause issues with all of the above.

Data protection legislation permits employers to monitor employee activity in certain circumstances but they need a lawful basis to do so and they need to communicate the monitoring appropriately to employees in advance. Before implementing monitoring of any kind, including CCTV, employers will need to ensure that they have reviewed their obligations under the General Data Protection Regulation (GDPR) and taken such steps as are necessary to ensure their compliance.

The relationship of trust and confidence is a central aspect of all employment relationships and a breach of it can lead to a successful claim for constructive dismissal. As monitoring employees inevitably carries with it an element of intrusion, it's not difficult to see how, if handled incorrectly, it could erode trust and confidence.

If an employee has a reasonable expectation of privacy then it can breach their human rights to monitor them. In the scenario above the CCTV was ostensibly in the bar but it caught the section of the staff room where the incident occurred. If Harold and Kylie believed that the staff room was an area for staff to relax on their breaks then they could argue that they had a reasonable expectation of privacy, especially if the CCTV was supposed to cover the bar area and was stated to be for the "protection of residents".

In the scenario above The Blue Sky Hotel failed to carry out an assessment of the use of CCTV at the hotel and had failed to notify the employees of:

- *their rights in relation to the use of CCTV and, in particular, the data gathered;*
- *the purpose of the CCTV i.e. what it could be used for;*
- *where it covered; and*
- *details of who would view the footage.*

How could they have handled it better?

The Blue Sky Hotel should have:

- *ensured, where possible, that the CCTV was targeted at areas of particular risk and confined to areas where expectations of privacy were low;*
- *informed their employees of the extent and nature of the CCTV and the reason for it;*
- *consulted with their employees about the use of CCTV;*
- *ensured that adequate notices were used to inform employees about the use of CCTV; and*
- *kept all of these arrangements under review.*

The good news is that the risks above can be minimised by carrying out a full privacy impact assessment and producing appropriate accompanying policies. Doing so will maximise the chances of the monitoring being lawful and an employer being able to rely on it to protect their business. It is vital that an organisation's GDPR compliance is also in order and taking these steps alone is unlikely to be sufficient.

The above principles apply to all forms of monitoring. The value of having lawful monitoring is growing as more employers want to be able to protect their business using new and old technology. Employees are becoming more aware of their rights, so it is vital for employers to ensure those rights are not breached.

Our employment team has experience in advising on a wide variety of different types of monitoring including the use of CCTV, vehicle tracking and drug and alcohol testing. If you want to discuss monitoring further or how we can support your business please contact our employment team on 01392 210700 or email employment@stephens-scown.co.uk

A person in a green jacket stands on a stone wall, looking out over a vast mountain landscape. The sky is filled with dramatic, grey clouds, and the foreground is covered in dense, purple heather. The overall scene conveys a sense of adventure and natural beauty.

Walking tourism – how to boost your business

With walking and activity/experiential tourism on the rise and easy access to one of “the world’s best long walks” (so says the Lonely Planet) walking tourism might be one of your biggest business opportunities.

So, if you would like to benefit from more high spending, out of season visitors read on.



I am half way through walking the South West Coast Path with my trusty hound (Luna aka the Tuna) raising money for charity and it's not as easy as I thought - although why I imagined it would be I don't know, particularly if you are scared of heights. But it is truly magnificent and it is right there surrounding us, an asset for us all to tap into.

Visitors, me included, and I am sure you too, want life to be less complicated and this also applies to arranging walking holidays. So my advice is to make it really easy to find out about your business and the great welcome you offer walkers.



Top tips

- **Online** - with details about once in a lifetime walks/experiences close to you using film, images, social media and links to great walks
- **Offline** - in any marketing material you produce
- **Cafes/pubs** - use signage to show that you don't mind if walkers are wet or muddy, you have a fire they can dry off beside (while eating your food) and you don't mind if they charge their phones or bring their dogs (you might even offer a towel)
- **Accommodation** - what facilities can you provide such as coffee and cake after a hard days walking always goes down well, laundry or drying facilities, packed lunches, book exchange, flask filling, bus times, maps and guide books
- **Offering little extras** – this can have a massive impact for example a B&B gave me a take-away bacon and egg sandwich, so I could get an early start walking, and you can be sure that I will share that picture all over social media
- **Make sure that you provide loads of information on walks near you;** get out and explore the paths so you can offer expert, accurate and current advice.

In summary

1. Shout about and show (using images and film) the benefits to walkers visiting you e.g. proximity to once in a lifetime walks
2. Give them a reason to return and to tell all their friends about you by providing outstanding customer service and adding value
3. Offer an amazing experience to every single one of your visitors so they go away and share their memories/your story (for free).

If you would like to find out more about the benefits walkers can bring to your business please contact me nell@barringtonassociates.co.uk; if you want to follow our coast path adventures visit www.firsttimeto.co.uk and if you can support these great causes; Bloodwise and Ward 9 at Musgrove Park Hospital please go to <https://uk.virginmoneygiving.com/SomeoneSpecial/KitBarrington>

Who says you can't teach an old dog new tricks?

It was the national Festival of Learning (previously Adult Learners' Week) from 17-23 June. Employees of certain sized businesses have a statutory right to request time off for training but it is good practice for all organisations to give thought to professional training and development for their workforce.

What is the statutory right to request time off for training?

The statutory right to request time off for training applies where:

- An employee has worked for an organisation for at least 26 weeks;
 - The organisation employs 250 or more people; and
 - The training requested is to lead to a qualification relevant to the individual's job or will otherwise help them develop skills relevant to their work, workplace or business
- An employer has 28 days within which to accept the request or arrange a meeting to discuss it;
 - If a meeting is held, a decision must be made within 14 days of the meeting taking place unless the employee agrees to extend that timeframe. Employees have a right to be accompanied at the meeting;
 - A request can be rejected on the grounds that it would not improve the employee's effectiveness or the performance of the employee's business or on one of the eight set grounds for rejecting a flexible working request (including, for example, the burden of additional costs or a detrimental impact on quality);
 - An employee has a right to appeal, which should be lodged within 14 days of the decision being made

An employee can only make one written request per year and must include certain prescribed information including how the training/study will help them do their job better and help their employer's business.

The regime for handling the request is similar to that for a flexible working request:

A failure to comply with the statutory provisions can give rise to a complaint in the employment tribunal, for which compensation can be ordered up to eight weeks' pay (capped at the statutory maximum, currently £525 per week). Employees also have a right not to be subjected to any detriment or dismissed in connection with requests made for study or training.

What about general training and development?

Aside from the statutory right to request time off for training, it is good practice for all organisations to have the professional development of their employees in mind. Not only does this allow you to grow and develop the skills of your employees and increase resilience and productivity within your workplace but it is also likely to improve morale and your workforce is likely to be more committed and more engaged in their work as well.

As a general principle, employees should receive training appropriate to their role, subject to business need and operational and budgetary considerations. In many cases, we would expect training needs to be discussed through normal day to day management and an effective appraisal and performance management system should mean that you have a good idea of your employees' training and professional development needs on an ongoing basis. Training does not have to come at considerable external expense and you may want to consider:



- *Whether you might be able to make use of the apprenticeship levy system to fund the training;*
- *On-the-job training so that employees can 'learn by doing';*
- *Bringing external trainers in-house, as this can often bring the associated costs down as well as giving you the opportunity for greater control over the content of the training;*
- *Tapping into the experience and expertise of your own staff, who may be able to run internal workshops and training sessions;*
- *Encouraging employees who do attend external training to report back on that training and impart relevant knowledge to colleagues; and*
- *Making sure that, where external training is the only option, employees give careful thought to and set out the business need for the training.*

Do we have to pay employees whilst they are off and fund the training?

The statutory right to request time off for training is a right to request unpaid time off. However, under the National Minimum Wage Regulations, training which is approved by an employer will count as time work for National Minimum Wage purposes if done during normal working hours. Where employees are undertaking mandatory training provided by an employer or training requested by an employee but nevertheless approved by an employer, our advice is that that time off should be paid.

There is no obligation on an employer to fund training for any employee, whether falling within the scope of the statutory regime or otherwise. However, where an employer does agree to fund training, it will often be made subject to a formal training agreement, including clawback provisions in relation to any costs met. It is important that this agreement is put in place before training starts and that its terms are carefully drafted so that they are enforceable rather than being regarded as unlawful penalty clauses. It is not the case that an employer can, without limit, automatically demand repayment of all the sums they may have paid.



Ellie Hibberd is a partner and head of HRExpress. HRExpress offers commercial, practical support on HR and employment law issues that can be tailored to individual companies' needs. For more information please call 01392 210700 or email employment@stephens-scown.co.uk



Service charges and holiday accommodation

Most tenants of residential premises benefit from protection against excessive service charges under the Landlord and Tenant Act 1985 (the LTA 1985). Section 18 of the LTA 1985 defines “service charge” as an amount that is:

1. *Payable by a tenant of a “dwelling” as part of, or in addition to, the rent; and*
2. *Is payable directly or indirectly for services, repairs, maintenance, improvements, insurance or the landlord’s management costs; and*
3. *Varies, or may vary, according to the relevant costs*

What is a dwelling?

Section 38 LTA defines dwellings as “a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it.

The decision in *Phillips v Francis* [2010] EWHC B28 related to a chalet park in Cornwall. The High Court decided that the term “dwelling” was not limited to properties occupied as principal homes and, provided that the requirements of section 38 are met, there is no reason why holiday accommodation let on a lease does not qualify.

What are the consequences of sections 18 to 30 LTA 1985?

The LTA 1985 provides a number of key rights for residential tenants, which include the following:

1. *The landlord may only include costs in the service charge to the extent that they are reasonable*
2. *The amount of any advance payment of service charge must be reasonable*
3. *If the lease entitles the landlord to demand an administration charge which is variable, the amount of that charge must be reasonable*
4. *The landlord must consult with the tenants before entering into an agreement for more than 12 months or carrying out works above a threshold of £250 per property, unless the landlord obtains a dispensation from the consultation requirements*
5. *Tenants do not have to pay service charges or administration charges unless the landlord includes key information in the demand for those charges*
6. *Tenants do not have to pay service charges in respect of costs which were not demanded within the statutory deadline for issuing service charge demands.*

What does this mean for me?

If you are letting holiday accommodation other than on short term holiday lets, you need to consider whether the LTA 1985 applies to you. A failure to comply with the requirements of the LTA, which are detailed, can mean that you are not able to recover service charges, even where you have already supplied the services at your own costs, which could prove to be a very expensive mistake!

Although it is possible to ask for retrospective dispensation in the case of the requirement to consult on works, dispensation is in the discretion of the Tribunal and, even if dispensation is granted, that dispensation may well be conditional on the landlord absorbing some of the costs.



Richard Bagwell is a partner in our disputes resolution team who specialises in property. If you would like to discuss the issues raised in this article or any other property disputes matter please do get in touch by telephone 01392 210700 or email drx@stephens-scown.co.uk

MORE THAN MONEY – why the Living Wage matters



Businesses in the tourism industry are struggling to recruit quality workforces, but paying the Living Wage can benefit employers as well as employees, as Mother Ivey's Bay Holiday Park owner Patrick Langmaid explains.

Patrick learned about the Living Wage back in 2013 when reading about the Living Wage Foundation (LWF), and says:

"The LWF's goals chimed with me. I'd always paid above the minimum wage, but here was an independent, ethical organisation that was actively campaigning for better standards for employees."

Since he started paying the Living Wage, Patrick saw immediate benefits:

"The biggest benefit is in recruiting and retaining employees; paying the Living Wage means we can attract the best talent. This year in particular, we've seen some very noticeable benefits from our Living Wage accreditation."

"Despite the overseas workforce being reduced, I am still getting multiple applications for our jobs and can select the best candidate through this. There are huge positive knock-on effects, as our teams are motivated to deliver an exceptional experience for our guests."

The benefits aren't just internal – Patrick's business relies on positive experiences, and paying the Living Wage brings extra appeal to the holiday park:

"We welcome guests from outside Cornwall every year, and they're very aware of us paying the Living Wage. At a busy time of year, we've had exceptionally positive feedback from guests about the quality of our teams. Paying the Living Wage makes us stand out among the South West's holiday parks in an industry that isn't known for its high wages."

Changing to paying the Living Wage doesn't happen overnight; for Mother Ivey's Bay, it took a year of testing before making the switch. Speaking about the changeover, Patrick says:

"The wage increases made by the LWF have been reasonable, and you can change incrementally rather than all at once. If you aren't paying the Living Wage but might be able to, look at ways to transition."

"To anybody who is struggling with recruitment and isn't a Living Wage employer, I would say to look at your workforce as an investment, not a cost. We provide the best quality accommodation for our guests, so why not employ the best quality staff?"

"If you are paying the Living Wage, make sure that you join the LWF and are accredited. If I had one message for employers who don't pay the Living Wage, it would be to treat wages as an opportunity to build your business, not as a cost or a threat to the company. Pay what you can, not what you can get away with."

Patrick was awarded a Living Wage Champion Award in 2019, and his business is among over 5,000 others across the UK that have voluntarily committed to paying the Living Wage.

The Living Wage Foundation sets the rates and accredits companies who pay it to their staff.



Stephens Scown's corporate solicitors can assist employers in switching to paying the Living Wage, as well as offer expert advice to businesses who are thinking about making the change. Get in touch by phone on 01872 265100, or email corporate.cornwall@stephens-scown.co.uk

The rise of tours and experiences

A photograph of a group of people kayaking on a calm body of water during the golden hour of sunset. The sun is low on the horizon, creating a warm, orange glow across the sky and reflecting on the water's surface. In the foreground, a woman with blonde hair, wearing sunglasses and an orange life vest, is seated in a blue kayak, holding a black paddle. Behind her, a man is also visible in the same kayak. In the background, another group of people is kayaking further away. The overall atmosphere is peaceful and recreational.

It has been estimated that the global tours and activities market may be worth approximately \$150 billion annually and is marked as a major growth area for the future.

With this being the case many businesses in the leisure and tourism sector are looking at expanding their offerings to capture this growing market. Whether it is walking holidays, cycle holidays, wine tasting breaks, garden breaks, cookery holidays or spa breaks the possibilities for diversification are endless. In this article Kathryn Heath, senior associate in the IP & IT team explores some of the considerations for those looking to tap into the tours and experiences market for the first time.

Adding to your existing offering and moving outside your comfort zone can be risky but the benefits can really pay off. Below are some issues to consider before embarking on offering a new service:

The Package Regulations

The Package Travel and Linked Travel Arrangement Regulations 2018 which came into force last year brought many of those offering experiences and activities within the scope of package holidays for the first time. This means the organiser of the holiday is liable for the performance of the travel services included in the package (even if the services were performed by a third party and not the organiser) if something went wrong, travellers receive protection against the insolvency of the organisers of the package and travel organisers are required to provide certain detailed information to travellers.

The Regulations contain criminal offences for failure to comply so it is important to check whether adding a new service could bring you within the definition of a Linked Travel Arrangement or Package Holiday under the Regulations. Beware the Regulations catch more than traditional “package holidays” and simply adding cookery classes to your accommodation offering could bring you within the Regulations.

Terms and Conditions

Ensure these are updated to cover your new services as if you are offering a service you haven’t previously provided then it is unlikely your existing terms will cover everything you need (for example health information may not be needed for your hotel bookings but may be required for certain activities and cancellation policies will also be different). If you fall within the Package Travel and Linked Travel Arrangement Regulations 2018 your terms and conditions need to contain certain provisions.

Contracts with third party suppliers

Know your suppliers and ensure they are trusted and will provide a top service to your guests – it’s your reputation on the line and you may be liable under the Package Travel and Linked Travel Arrangement Regulations 2018 for their failures so always ensure you have written contracts in place with your third party suppliers which adequately protect you.

Insurance

Check with your insurance company to ensure you are covered for the expansion of your services into new areas.

Branding

Consider whether your existing trade marks cover the new service offerings you are providing and whether new trade marks need to be registered to cover your new activities and any new trade marks submitted for any new logos or designs.

Data Protection

If you will be sharing personal data received from guests with third parties make sure you obtain valid consent to transfer their data if required and ensure you have compliant policies in place.

Whilst this may all seem daunting if you take the right approach and do your research first the possibilities are endless and rewards great. After all there must be a reason why Airbnb, which started life with its room only model, now offers more than 20,000 activities in 800 cities around the world through the “Experiences” section on its website.



If you have any questions about the Package Travel and Linked Travel Arrangement Regulations, Kathryn can be contacted on 01872 265100 or ip.it@stephens-scown.co.uk

The Marine and Coastal Access Act 2009



Chris Tofts is a partner and head of planning at Stephens Scown. To discuss the content in this article please call 01872 265100 or email planning@stephens-scown.co.uk

What is the Act?

The 'Coastal Access' element of the Act places duties on both Natural England and the Secretary of State to establish a long-distance route around the whole of the English Coast for members of the public to access – otherwise known as the 'coastal access duty'.

What is the 'coastal access duty'?

The Secretary of State and Natural England must ensure the creation of a route around the whole of the English coast. This should consist of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry. The route is to pass over land which is accessible to the public (except to the extent that it is completed by ferry). In association with the English coastal route, a margin of land along the length of the English coast is also to be accessible to the public for the purposes of its enjoyment by them in conjunction with that route. Some land will be 'excepted', there is more detail on this below.

What is Natural England doing with regard to the 'coastal access duty'?

Natural England is tasked with determining where the route should be. In doing so, they are providing reports to the Secretary of State setting out the path of the route including establishing the coastal margin. Natural England (and the Secretary of State) must aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land. They must also take into account the safety and convenience of the coastal route, whilst keeping in mind the desirability of making sure the route provides sea views and making sure interruptions are kept to a minimum. Some routes have already been established (e.g. Dorset) and Natural England has published the proposed route in some areas of Cornwall and Devon and is currently consulting on the route in remaining parts.



What does this mean for landowners by the English coast?

The England Coast Path may cross over some landowner's private land. Natural England must take reasonable steps to consult persons with a relevant interest in affected land. If this applies to you as a landowner, you should discuss your position with Natural England during the consultation period for your area. Landowners may make objections in response to a report produced by Natural England. The current progress of the English coastal path stretch can be found on the Government website.

Whilst coastal access will not take away ownership of the land, landowners should be aware that the public could carry out activities permitted by law on footpaths, bridleways and other public rights of way should your land be determined as part of the England Coast Path or part of the coastal margin.

For holiday park owners the designation of land as coastal access land may cause some concern in terms of granting access to the public to those parts that are not within the regulated caravan or camping site park.

Those businesses and individuals who own a beach and use it for private functions will be concerned about public access being incompatible with continuing those uses.

'Roll back' of England Coast Path

In respect of the England Coast Path, it will be possible to 'roll back' the line of the path should land be affected by coastal change such as erosion. In order to respond to these natural coastal changes quickly, the route could be moved without needing further approval from the Secretary of State. In comparison, should a standard footpath physically disappear through erosion, the public right of way will cease to exist as the route has been destroyed. Landowners of land adjacent to the existing coastal path will need to be aware of this change.

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What is the 'coastal margin'?

Natural England has some discretion to determine the coastal margin, however this will automatically include the land on the seaward side of the England Coast Path. Natural England may also extend the coastal margin inland from the Coast Path in certain circumstances. Some land types falling landward of the trail may also automatically become part of the coastal margin too, for example foreshore, dune and any cliff or bank.

Excepted Land

Some Land will become Coastal Margin, but will be 'Excepted Land'. This means that the land will be shown on maps as Coastal Margin, but there will be no rights over that Excepted Land. Some examples of Excepted Land include land covered by buildings or the curtilage of such land and land which is, or forms part of, a regulated caravan or camping site. In contrast to 'Access Land', land within 20m of a dwelling or within 20m of a building which is used for housing livestock is not Excepted Land and therefore is subject to the rights of access.

Businesses urged to consider employee ownership

On Employee Ownership Day 2019, Stephens Scown urged business owners to consider employee ownership. This comes as a survey shows that although 70 per cent of business owners surveyed could see the benefits of employee ownership, less than 10 per cent have considered implementing it because of a need to see more evidence of local businesses becoming employee owned.

WE ARE
EMPLOYEE OWNED

We became employee owned in 2016, becoming the first large law firm in the UK to do so. We also advise business owners considering a transition to employee ownership through a sale of part or whole of the business.

How Employee Ownership works for everyone

A survey conducted by PFA Research for Stephens Scown with businesses based in the South West has shown that despite hesitancy to switch to employee ownership among some businesses, 70 per cent of surveyed companies saw definite benefits to the model, both for management and for employees.

Commenting on the results of the survey, Stephens Scown's managing partner Richard Baker said: "With high profile South West businesses like Aardman Animations and Riverford Organics becoming employee owned in recent years, there is increasing awareness of the benefits of employee ownership.

"We have seen this interest increase ourselves and we are currently in discussions to provide legal support to 18 businesses from across the UK who are at various stages of the transition to employee ownership. While it is natural for business owners to be cautious, businesses like ours can show them that employee ownership is achievable and desirable."

Discussing the firm's move to employee ownership, Richard said: *"I have been with the firm for over two decades, and the switching over to employee ownership was one of the best decisions that we have made for our people, and the firm as a whole."*

"Being employee owned is about so much more than the profit-share; it's about everyone being able to have their say as we all work towards a common goal. We are not a workplace where everything flows to the top; employee ownership means that nobody is left behind and ensures that the business keeps running no matter who is holding the reins."

The figures for Employee Ownership

Employee Ownership Day (28 June 2019) is an initiative of the Employee Ownership Association and aims to raise awareness of the economic benefits and positive impact the sector has on the UK economy. More than 300 businesses in the UK are now employee owned, employing in excess of 200,000 people between them. The sector has seen 60% of its growth in the past seven years and continues to grow at more than 10% a year. It contributes £30 billion to GDP.

The Employee Ownership Association reports additional benefits to the employee owned companies; candidates are 44 per cent more likely to apply for jobs at employee owned companies, and 58 per cent of UK adults agree that employee owned companies are more trustworthy than their counterparts.

To find out more about Stephens Scown's employee ownership journey, please contact our solicitors on 01872 265100 or email solicitors@stephens-scown.co.uk

Hospitality and family businesses



In our role as accountants and business advisers for hospitality businesses, we cover a plethora of advice to support our clients across the wide range of requirements that they have. For us, having local knowledge of the hospitality industry is as critical as a broader technical and accounting knowledge across tax issues and banking requirements. We also recognise that it's essential that our clients understand their businesses well so that there can be good governance, sound planning and a clear direction of travel. Sometimes this can be difficult with family relationships combined with a busy tourism season.

This is why we have developed the PKF Francis Clark Family Business Connect House, to assist family and owner managed businesses access understanding, support and guidance across possible challenges and opportunities they may face. Building on firm foundations, the 'house' is segmented into different 'rooms', each representing a different aspect of running a business, enabling clients to navigate through specific situations and requirements.

By considering each 'room' in turn, families and owner managed businesses can structure their thoughts and ideas in a more objective way and identify strengths and weaknesses. The process also highlights where more work should be undertaken and acknowledges good work which is well thought through. For hospitality businesses, specific knowledge is also required meaning that owners should understand their key responsibilities across employment taxes, tips and tronc, Benefit in Kind Tax (BIK) knowledge as well as a good understanding of capital taxes – and of course the day to day running of a business and all that brings with it.

Discussing various topics in each of the rooms with our clients can be a great way of breaking down barriers between family members. Individual members often have their own objectives and we are finding that dealing with these in a more pictorial way is a great leveller. This is often done over a series of meetings, often where different generations contribute their ideas. So far, no one has fallen out and we have drawn out some important issues and objectives.

Sometimes, these objectives will involve working closely with other professionals such as Stephens Scown to help with drawing up shareholders agreements or wills, amongst others.

As a business we would welcome the opportunity to show you around our Family Business Connect House and speak to any multigenerational businesses to explore how we might be able to assist in structuring things to help the business and family move forward in a cohesive manner.



For further advice, please contact Tom Roach on 01872 276477, email Tom.Roach@pkf-francisclark.co.uk or visit pkf-francisclark.co.uk

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- ✓ Increased productivity
- ✓ Increased growth
- ✓ Increased resilience

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contact details
up to date?

We send out regular emails to our contacts, are your details up to date?
To ensure you receive our regular updates and invitations, please send your
email address to leisureandtourism@stephens-scown.co.uk

Other ways to keep in touch:



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