

Dickinson Manser

S O L I C I T O R S

(incorporating Hawkins Greenwood)

Dickinson Manser sponsors Wessex Youth Orchestra

To the strains of music by Sibelius, Saint-Saens and Kodaly, Dickinson Manser were sole sponsors of the Wessex Youth Orchestra's Annual Gala Concert.

The event took place on the 13th March 2004 at Lighthouse, Poole's Centre for the Arts.

The Wessex Concert Hall at Lighthouse was filled with an audience of several hundred including the Mayor of Poole, Partners and staff of Dickinson Manser and their guests.

The 50 strong orchestra, with members ranging in age from 12 to 19 years, demonstrated their talent and hard work and there was a stunning guest solo performance by 15 year old prize winning pianist, Cordelia Williams.

The Wessex Youth Orchestra, comprising the main orchestra and its separate groups, continues to encourage local young musicians from all backgrounds to enjoy performing music at the highest level by meeting regularly on Saturday



mornings at Bournemouth & Poole College of Further Education.

Gary Cox, Senior Partner of Dickinson Manser, commented "We are very pleased to have sponsored this wonderful concert.

We have been closely involved with Lighthouse since its inception as the Poole Arts Centre in the early 1970s and are most keen to be doing what we can to support the arts and the young people of the area. We hope that our involvement will help raise awareness of the Wessex Youth Orchestra and what it has to offer both to the players and to the audience".

bankruptcy and liquidation

The Enterprise Act made important changes to the law on bankruptcy and liquidation.

The Act's provisions have come into force in stages. The final part came into force on 1st April 2004, so now is a good time to assess how the new regime affects your business.

The Act streamlines the procedure of 'administration' to make it more efficient and accessible. The Act also limits who can appoint an 'administrative receiver' which is now a right only given to lenders who hold existing floating charges and some others.

The Act also reduces the number of restrictions that are automatically imposed on undischarged bankrupts and provides for the automatic discharge of nearly all bankrupts after a maximum of 12 months. This used to be a three year period. There are now also Bankruptcy Restrictions Orders (BROs) which protect the public and the commercial community from bankrupts whose conduct before and during bankruptcy has been found to be culpable.

The Act also brought in Income Payments Agreements (IPA) as an administrative alternative to court-based Income Payments Orders (IPO). The Act limits to three years the period in which a trustee may deal with a bankrupt's interest in the home of the bankrupt, the bankrupt's spouse or a former spouse before that interest reverts to the bankrupt.

Finally the Act removed the Crown's preferential rights in all insolvencies and made provision to ensure unsecured creditors are major beneficiaries. Contact us for advice about who should be paid first where a business is in difficulties as there are important criminal provisions to consider.

Fraudulent trading and fraudulent preferences such as diverting money from the company to a director just before the company goes out of business can land individuals in jail. We are happy to advise on all insolvency situations.

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selling services

Lots of local businesses provide services to their customers and many will benefit from having a clear simple set of contract terms setting out what will be done and when, if things go wrong.

In January the European Commission proposed new laws in this area. 50% of all business in the EU is services rather than sale of goods.

The new measures will make it easier to set up providing services in other EU states which from 1 May include ten new countries as well as the existing 15 EU countries.

The proposal is quite far reaching and would even set out rules as to when patients could seek health service treatment in other EU states.

The changes will include:

- A change so that once a service provider is operating legally in one Member State, it can market its services in others without having to comply with further rules in those "host" Member States.
- Ensuring that national authorities exchange information and work much more closely together so there is no overlapping of different national rules for businesses.
- Making it easier to work abroad temporarily. Service providers would, however, continue to have to respect the law of the destination country in terms of minimum wages and other working conditions, in compliance with an earlier Directive.

The establishment of basic common rules applicable throughout the EU, in order to increase trust and confidence in cross-border services.

This would require professional indemnity insurance for services giving rise to particular risks; European codes of conduct for regulated professions; for certain sensitive areas - cash in transit, gambling services and access to the activity of judicial recovery of debts, the proposed Directive would provide for the possible development of specific rules, by 2010 (or possibly beyond in the case of gambling services);

Many businesses have no written terms and condition at all for the provision of their services. They lose out because they do not sign customers up for minimum service terms or set out how and when they will be paid. That may not matter where all is

going well but if they fall out with a customer well drafted service contracts can make a difference and with these changes in the prospect now may be a good time to update contract terms or have a customised set drafted.

liability for car accidents



If you are injured in a car accident and the driver of the other vehicle does not have insurance there is a scheme run by the Motor Insurance Bureau which should ensure you receive compensation even if the driver is penniless.

Often the worst most careless drivers are those without insurance and they rarely have deep pockets to fund compensation claims.

The MIB Legal Expenses Scheme became effective for claims on or after 13th November 2003. It has been specially developed to address the growing problem of funding legal costs when claiming against an uninsured motorist.

We can advise you on the best course of action if you are injured by an uninsured driver.

employment agencies & temporary workers

Long awaited changes to the law on employment agencies and agency workers came into force in April.

Agencies supplying temporary workers to work with children, the elderly or the infirm, will be required to carry out additional checks - including obtaining copies of relevant qualifications, two references, and a responsibility to take all reasonable steps to confirm that an individual is suitable.

If new, adverse information comes to light, they will have to withdraw the temporary worker or inform the employer if the

worker has been supplied on a permanent basis.

The new rules will affect the 500,000 people in the UK who work through 17,000 agencies and employment businesses.

The measures also include:

- agencies placing actors, models and extras no longer being allowed to charge upfront fees before they find them work
- employment businesses no longer being able to withhold workers' pay purely because they cannot produce an authenticated timesheet

● agencies having to obtain information on any health and safety risks known to the hirer and the steps taken to prevent or control those risks

● limits on provisions that prevent temporary workers from taking up permanent jobs with hiring companies unless a fee (known as a 'temp to perm' fee') is first paid to the agency

● provisions to allow limited company contractors, who are often highly paid and highly skilled, to opt out of being covered by the regulations but which prevent vulnerable workers being forced to do so.

selling at a distance

Home Information Packs

Do you sell by mail order, telesales or from a web site? Many of our clients do this either as their main business method or part of their business.

Anyone with an organized "distance selling" arrangement such as this has to comply with the distance selling legislation which in particular give customers rights to cancel contracts after they have made them in many areas. There are important exceptions such as for customised goods and for some categories such as purchase of CDs or travel and holidays. The DTI has now begun consulting on changes to the laws in this area. Their proposed changes would:

(a) make traders responsible for telling consumers at time of sale if the goods or services are exempt from a "cooling off" period

(b) look at cutting business costs of informing consumers

(c) give consumers the right to cancel a distant contract by phone as well as in writing or by email – under current law a permanent means of cancellation must be used

For those in the IT sector the DTI issued last year some specific guidance on how the distance selling laws apply to IT contracts such as those for the supply of software or IT related services.

If you have a web site or sell goods or services at a distance you may need advice on how to ensure that your conditions comply with current distance selling legislation and some guidance on how the new proposals might affect you.



Moving house is one of the most stressful life events for many people. The Homes Bill is likely to become law this year and will require those selling a house to provide a seller's pack.

This should speed up buying and selling of houses in England and Wales. The seller will have already obtained a local authority

search so delays whilst the buyer obtains one will be gone.

The new rules are not likely to come into force until 2006 but the change has been welcomed by many caught up in the slow process of moving home.

Although not entirely finalized the pack is likely to include the following documents, most of which are currently provided later on:

- the sale
- terms of sale
- evidence of title
- replies to standard preliminary enquiries made on behalf of buyers
- copies of any planning, listed building and building regulations

- consents and approvals
 - for new properties, copies of warranties and guarantees
 - any guarantees for work carried out on the property
 - replies to local searches
 - a home condition report based on a professional survey of the property, including an energy efficiency assessment.
- Also, for leasehold properties:
- a copy of the lease
 - most recent service charge accounts and receipts
 - building insurance policy details and payment receipts
 - regulations made by the landlord or management company
 - memorandum and articles of the landlord or management company.

e-mail marketing

Do you get fed up with receiving unsolicited emails which clog up your in-box? If so you may be able to take steps to curtail this.

New rules in force prohibit the sending of unsolicited emails without consent. Conversely, if your business uses email marketing as a tool it would be wise to take some legal advice about what you can and cannot do.

Recently the Advertising Standards Authority issued rulings against two companies that had sent unsolicited commercial email without the explicit consent of recipients. This broke the ASA code of practice never mind the new laws.



One case concerned a company "Business in a Box".

Its e-mail contained only the word "Hi" in its subject line, and then told people about an opportunity to make millions of pounds. The marketers were accused of sending unsolicited commercial e-mail without consent, and of sending an e-mail that did not make clear prior to opening that it was an advert. The ASA upheld the complaint.

The second case related to five e-mails sent by one of the UK's leading PC sellers, Evesham Technology, trading as

lowestonweb.com

The recipients had not consented to receiving the e-mails. The ASA upheld the complaints on the grounds that while the marketers had used data purchased from another company, it had not checked whether the data supplier – and consequently the e-mail addresses supplied – were bona fide.

The Information Commissioner has recently issued guidance for individuals and companies on the new rules.

Contact us for further information on this important area.



disciplinary and grievance procedures

Employers need to think about new draft regulations which require that most employers must operate new obligatory procedures before dismissing an employee from 1st October 2004.

There is no exemption for small employers and their current exemption from rules requiring employers to give employees details of disciplinary and grievance procedures is to end.

Do you have a disciplinary procedure in place? Every employer is obliged to give their employees written particulars of their employment contract or terms and yet many local businesses do not do so. There is a statutory list of the information which must be provided such as pay, holiday rights, pension if any and other matters.

Contact us if you need an employment contract or director's service agreement for directors. It is also wise to have such standard contracts regularly updated to reflect changes in the law such as the new disciplinary and grievance procedure requirements described in this item and other changes in the law such as the new legislation on religious and sexual orientation discrimination which came into force at the end of last year.

higher fines for the rich



If your income is high you may be required to pay higher fines than someone else who is not as well off for the same offence under recently disclosed Government plans.

It is proposed that a range of fines could be more closely linked to income. At the moment judges have a limited discretion to impose fines for lesser crimes, such as motoring offences and failing to renew a TV licence, but the new plans

would widen the courts' powers.

About a third of fines are unpaid and enforcement can be poor but no one should ever try to avoid a fine by simply failing to pay. The legal consequences can be unpleasant. If you are faced with a fine or a possible criminal conviction it is worth taking legal advice rather than seeking to handle the matter yourself so that you are fully aware of the legal implications.

sharing your information between government departments

Does the tax man share information about you with the VAT office? What about benefits offices?

What is lawful and what is not in this area? The Data Protection Act 1998 provides useful protection for individuals so that their personal data is only used as they are told it will be used. However, there are many exceptions and exclusions from the protection particularly in the important areas of law enforcement and security.

On 5th January after months of wrangling, a new order allowing some public authorities access to customer data held by

telecoms companies and internet service providers has been agreed and came into force in January. The regulations are made under the Regulation of Investigatory Powers Act of 2000. Earlier 2001 terrorism legislation required the retention of communications data by ISPs as these were needed to fight terrorism. Once obtained the RIPA provisions allow access to many other agencies for purposes unconnected with terrorism. The data concerned includes information from telephone companies, ISPs and interactive TV providers and it describes the caller and the

means of communication (such as subscriber details, billing data, e-mail logs, personal details of customers, and records showing the location where mobile phone calls were made). It does not include content. In addition to the police, Inland Revenue, Customs and Excise, MI5, MI6 and GCHQ, the new order gives certain other agencies rights to access communications data. These are fewer in number than in the original proposal which had been called by critics the "Snoopers' Charter," but do include:

- The Financial Services Authority

- The Office of Fair Trading
- The Maritime and Coastguard Agency
- The UK Atomic Energy Constabulary
- The Scottish Drugs Enforcement Agency
- The Radiocommunications Agency
- NHS bodies, in connection with health and fraud
- Local Authorities (but not parish councils)
- The Office of the Police Ombudsman for Northern Ireland.

Contact us if you need advice on this or any other data protection or privacy law issue.