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# MAGAZINE

ISSUE 16 // AUTUMN 2024

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# Labour's Employment Changes: What Are They and When Will They Happen?

Following the election of the new Labour Government in July 2024, employers and employees have been waiting with bated breath for details of how and when they intend to introduce their highly publicised plans for reforming employment rights.

Their plans were set out during the General Election campaign in their 'New Deal for Working People'. Since then, it was confirmed in the King's Speech that the Government would introduce a new Employment Rights Bill within the first 100 days of office, meaning that we should have further details by 12 October 2024. However, this doesn't mean that new laws will actually be in place by this time.

In this article, we examine the key anticipated proposals and consider how long it may realistically take for reform to take effect.

## Providing more 'Day-One' Rights

The Government has indicated that they will protect against unfair dismissal and make the right to parental leave a 'day one' right.

In relation to unfair dismissal rights, this is a significant change from the current position of needing two years' service to bring an unfair dismissal claim. This was one of Labour's headline proposals and can reasonably be expected to be introduced as a priority. In theory, this could be achieved without additional parliamentary approval by using a power in the existing legislation to remove the current two-year qualifying period. However, in practice, the Government has indicated that they will need to consult with employers, particularly around the suggestion that probationary periods will still be available to employers to 'assess new hires'. The ACAS Code of Practice on Disciplinary and Grievance Procedures will also need to be updated.

There is a longstanding policy of only bringing employment law changes into force in April or October, rather than implementing these throughout the year. While the Labour Government isn't bound to stick with this, it seems likely that the right not to be unfairly dismissed from day one will take effect in October 2025 or April 2026 at the earliest.

## Banning 'exploitative' zero-hour contracts

Zero-hour contracts (also known as casual contracts) offer no guarantee of work; individuals are only paid for the hours they work, with no obligation on the employer to provide regular work and no obligation on the employee to do the work when asked. Such contracts are widely used in the UK, with over one million people engaged in zero-hour contracts in the first quarter of 2024.

The Government has pledged to ban 'exploitative zero-hour contracts', ensure workers have a right to a contract that reflects the number of hours they regularly work, and provide all workers with reasonable notice of any shift changes as well as proportionate compensation for any cancelled or curtailed shifts.

Given the extensive use of these contracts, and the use of the word 'exploitative', it may be that we don't see a total ban on zero-hour contracts but only on those that meet the (yet undefined) threshold of being exploitative. It is anticipated that substantial consultation and legislation will be needed and so, in reality, the new rights are unlikely to take effect within the first two years of the new Government's tenure.

## Ending the practice of 'Fire and Rehire'

The practice of 'fire and rehire' refers to an employer dismissing employees and re-hiring them on new terms. Employers frequently use this method to implement change; however, 'fire and rehire' has recently come under significant criticism.

We are not provided with a great amount of detail on how the Labour Government intends to bring an end to this practice, but they have indicated that effective remedies will be introduced, and the statutory Code of Practice (implemented by the Conservative Government) will be replaced.

When in opposition, Labour criticised the Code for not going far enough to prevent fire and hire and it has been confirmed that the Labour Government intends to replace the Code with a 'strengthened version'.

We await further clarification but expect reform to be implemented within the first two years of the new Government's tenure.

## Strengthening Statutory Sick Pay

Statutory Sick Pay (SSP) is currently unavailable for the first three days of absence. However, the Government have said they will remove this waiting period and make SSP a 'day one' right. Additionally, the Government plans to remove the lower earnings limit. Currently, SSP cannot be claimed by employees earning less than £123 per week and 1.5 million people currently earn less than this.

Both of these changes require new legislation and are expected to feature in the new Employment Rights Bill. The changes won't require any substantial follow up regulations to bring them into force so, if the Bill achieves Royal Assent very quickly, it is possible that these changes could be introduced as soon as April 2025.



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## Introducing a right to switch off

Although not specifically mentioned in the King's Speech, Labour had previously stated that they would also bring in a 'right to switch off', giving workers the right not to engage in work correspondence (telephone calls, emails and instant messages) outside their contracted working hours.

There are similar models already in place in Ireland and Belgium that could be considered. However, with both models, there are no specific sanctions for employers who have failed to comply with the right and so the actual impact of the models remains questionable.

If the new right to switch off is introduced by the Employment Rights Bill, it is likely that substantial consultation and further legislation and/or new codes of practice will be needed to implement the right. However, as there are already models available to replicate, it is possible that the right could be brought into force over the course of the next year or so.

## Making Flexible Working the default

The law regarding flexible working changed in April 2024, providing all employees with a 'day one' right to make a flexible working request. The change also now requires employers to consult with employees before refusing a request.

The Government's proposal is to require all employers to accommodate flexible working as far as is reasonable to 'reflect the modern workplace'.

Given the law already requires an employer to reasonably deal with a flexible working request, it will be interesting to see how a new law can enhance this obligation. It may be that the eight business reasons under which an employer can currently reasonably refuse a request are tightened up and more stringent processes are established. In any event, given the law already exists,

the changes could be introduced relatively quickly, subject to any consultation and the development of new guidelines.



## Strengthening Protections for New Mothers

The Government propose to make it unlawful to dismiss a woman who has had a baby for six months after her return to work, except in specific circumstances.

Whilst this is a step in the right direction for many pregnancy and maternity discrimination lobbyists, there is currently no clarification as to what 'specific circumstances' means. We await further clarification on this in the draft Bill. However, given it is likely to require particular consultation with employers and secondary legislation to introduce this change, it is unlikely that this law will be implemented within the first two years of the Government's tenure.



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# Can I Gift My Property To My Children?

Before you decide to gift your home to a loved one, it is wise to **discuss the complexities and risks with a solicitor**. At Myerson, our Private Client and Residential Property Teams are experienced in providing bespoke advice in this area and have outlined their key considerations below:

## Points to consider from a Private Client perspective

### 1 Future security

If you gift your main residence to your children, you risk the security of being able to reside there for your lifetime. If your loved ones go through a divorce, bankruptcy or die, your property will form part of their 'assets' and therefore, your occupation may be at risk.

### 2 Practicalities

If you transfer the ownership of your property to your children, you will no longer be the registered proprietor. This means that any key decisions, for example to sell or obtain an equity release, will no longer be yours to make.

### 3 Inheritance tax position

Gifting your property to your children more than seven years before you pass away can reduce your inheritance tax liability. However, before you make the significant decision to do so, it is wise to obtain independent legal advice on your circumstances. At Myerson, we offer bespoke estate planning and would advise whether your estate is likely to be subject to inheritance tax and what the implication would be if you are retaining a benefit from the gifted property.

### 4 Future care home fees

If you intend to gift your property to your children to avoid paying care home fees, you may wish to reconsider your position. Even if your property is no longer held in your name, your local authority may still pursue you as the former owner and take its market value into consideration when assessing your needs.

## Points to consider from a Residential Property perspective

### 1 Robust legal advice from a Private Client solicitor

Prior to instructing us to deal with the Transfer, we would require sight of your advice and confirmation that you understand both the benefits and risks of doing so.

### 2 Stamp Duty Land Tax

There is usually no Stamp Duty Land Tax to pay on a gift. This is because the duty is assessed on the consideration and there is none. However, it is important to note that the gift of the property may affect the recipients' tax position.

### 3 The current mortgage

Lenders are unlikely to consent to any transfer as they would want the new owner of the property to be obligated to them to make the repayments on the mortgage. If you are unable to transfer the legal title or opt to transfer the beneficial ownership only then this would most likely be a breach of your mortgage terms and conditions.

## How can Myerson help you?

We can provide you with robust legal advice and guide you through the process of transferring your property from one generation to the next. Please contact us if you would like to receive a quotation for our services.



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# Secure Your Legacy Today

Our Wills, Trusts, and Probate Lawyers understand the complexities of modern life, relationships, and the importance of taking care of you, your family and your financial interests.

We're proud that so many families, institutions, and individuals choose Myerson as an integral part of their succession strategy.

Our expert team is ready to help you with:

- ▶ Wills
- ▶ Trusts
- ▶ Probate
- ▶ LPAs
- ▶ Inheritance Tax Planning
- ▶ Succession Planning

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Speak to a member of the team and secure your legacy and your family's future today!



## Celebrating Our Band 2 Ranking in the 2024 Chambers High Net Worth Guide!

We're excited to share that we've been ranked **Band 2** in the **2024 Chambers and Partners High Net Worth Guide!** This recognition highlights our work in Private Wealth Law for Manchester and beyond, as well as Private Wealth Disputes in the North West.

This achievement reflects our commitment to providing top-quality legal support to you, our valued clients.

Our **Wills, Trusts & Probate**, and **Contentious Probate** teams have played a big part in this, and we're thrilled that our dedication to helping individuals, families, and businesses has been recognised.

We're especially proud of being called a *"well-oiled machine"* that's *"great to work with"* and *"focused on getting things done"* - feedback that means a lot to us as we continue to serve you!



Wills, Trusts & Probate team



Contentious Probate team





# The Pros of Prenuptial Agreements

When you are planning a wedding, there is a lot to do: invites, venue, catering, place settings, etc. To the uninitiated, weddings are like military operations, guided by Hello magazine, Instagram and plenty of Excel spreadsheets.

However, one part of wedding (and marriage) planning is often overlooked: **prenuptial agreements.**

## What is a Prenuptial Agreement?

A prenuptial agreement, or pre-nup, is an agreement made before a marriage that seeks to regulate financial affairs during the relationship and determine how assets should be divided in the event of a divorce.

Pre-nups offer parties an opportunity to safeguard wealth on divorce. This is because, following a Supreme Court decision in 2010, the court must give appropriate weight to the terms of a pre-nup upon divorce. That is not to say a pre-nup is a binding document. Instead, there are criteria which the court will look at (like timing, independent legal advice and financial disclosure) which will help inform the weight attributed to the agreement.

## The Benefits

### Certainty

A pre-nup can save time and stress of potential contested financial proceedings later on in the event that the parties separate.

This, in turn, can lead to fewer arguments on divorce, allowing the parties to focus on the future and any children, if applicable.

### Transparency

A pre-nup should contain financial disclosure, allowing both parties to understand, at the outset, the value of each other's assets.

This helps to ensure that both parties know what the financial impact of the agreement would be, if upheld.

### Affordability

Drafting and entering into a prenuptial agreement is cheaper than embarking on contested financial remedy proceedings at a later stage.

### Bespoke Solutions

A pre-nup allows parties to divide assets how they see fit, providing them with a freedom that they would not have with a court-imposed solution.

The parties can include a review clause to allow them to review and update the terms of the pre-nup at a later stage if necessary.

### Non-matrimonial property

You may want to protect some assets, like an inheritance or a business interest. A pre-nup can assist by clarifying that these assets should be regarded as non-matrimonial property which would fall outside the scope of the division of the assets on divorce. This can help avoid a situation in which an ex-spouse is awarded an interest in a family business, for instance.

### Romance

Yes, you read that correctly. A pre-nup can help safeguard against potential financial opportunists, allowing parties the reassurance to know that their other half is interested in matrimony, not their money. This can encourage marriage for the right reasons.

Pre-nups will never be as glamorous as picking a venue, or as sentimental as finding the perfect dress. However, approximately 42% of marriages end in divorce, so a commercial approach is encouraged. After all, a well drafted pre-nup can act like good wedding insurance: a helpful hand, if you need it.



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# Property Investors - How Can We Help You?

Whether you are a first-time investor or are adding to or restructuring an existing property portfolio, you will need a trusted legal advisor to guide you through the process and deal with the requirements of the involved third parties such as **mortgage lenders, bridging finance providers or Companies House**. At Myerson, we recognise the distinctive differences between the process, the approach and sometimes the timescales, involved when purchasing owner-occupied and buy-to-let properties. Here are some of the transactions and processes which we can help you with:

## Purchase of Buy-to-Let Property with Mortgage Finance

There are currently around 2,700 buy-to-let mortgages available on the market. At Myerson, we are on panel for the vast majority of these lenders and are experienced in managing their sometimes-complex requirements and special conditions which need to be complied with before the lending can proceed. When we are not on panel, we regularly act for investors whose lenders instruct a separate firm of solicitors to act for them; these solicitors often have a significant number of conditions to be satisfied before they can report to the lender, confirming that the title to the property is good, marketable and acceptable for lending.

## Refinance

Whether you wish to secure a better rate, restructure an entire portfolio, or release some equity, we can assist you with refinancing. Upon instruction, we would review your lender's instructions and work quickly to satisfy the new lender regarding the title to the property whilst arranging the redemption of any existing finance. We understand that time is often critical when a refinance or restructure is concerned, and strive to ensure the transaction is completed within your desired timeframe. We are on panel with most mortgage lenders and are highly familiar with their requirements and procedures.

## Property Incorporations

We regularly act for clients who wish to incorporate a property portfolio owned within a partnership, to a company name instead, to take advantage of various tax benefits. We work alongside tax advisors and Myerson's Corporate Team to ensure that you receive accurate tax advice, the transaction is structured in the correct way, and that the necessary incorporation documentation is prepared; this approach helps ensure that the incorporation project runs smoothly. We can also handle this alongside a refinance if needed.

## Director Selling Property to Company

We also act for directors who wish to transfer a property owned in the name of the director to the company. This may be financed by the company by way of a director's loan. We are used to acting in this scenario and to documenting the transaction in the correct way.

## Ongoing support

Our team of residential property solicitors provides clear and pragmatic legal advice to ensure that however you wish to structure your transaction, it is dealt with efficiently and to your desired timeframes. Myerson offers additional resources to help you manage your property portfolio in the future. Whether you choose to refinance, restructure, or need additional advice from other teams at Myerson, for example regarding any issues experienced with your tenants, we are here to help; as a full-service law firm, we offer comprehensive support, providing all the assistance you need under one roof.

At Myerson, we focus on building long-term relationships with our investor clients, many of whom come back to us time and again to expand, reduce, or adjust their property portfolios. As trusted advisors, we're here to help with any property in England and Wales, always providing straightforward, friendly and practical advice to make your transactions as smooth as possible.



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# Unmarried Couples Separating: What Happens to a Home Owned by One Partner?

There is a myth that when you live with your partner for a long period of time, you are in a **“common law marriage”**. However, the reality is that in England and Wales, there is no such concept. Whether you have lived with your partner for one year or 50, if you are not married, you have no automatic rights to your partner’s assets if your relationship breaks down.

Cohabitation is increasing in the UK and often someone will move into a property that their partner already owns. Alternatively, it might be that one person cannot afford to contribute to the purchase of a new home. However, often, people do not realise that if the relationship breaks down, they could find themselves in a difficult situation.

Take the following scenario where Annie owns a property in her sole name. She is in a relationship with Ben. After a period of time, Ben moves into Annie’s home and begins contributing towards the mortgage and other bills.

## Does Ben have any interest in the property?

The starting point in cases where the property is registered in one party’s sole name is that the beneficial interest is owned by that party alone. In this case, it is Annie.

Therefore, the burden will be on Ben to prove that Annie does not hold 100% of the beneficial interest in the property.

There was never any discussion between the couple about Ben acquiring an interest, but they see the property as their home. Later, Ben contributes to renovations in the property such as paying towards a new kitchen.

However, some years later, the relationship between the parties breaks down and Ben moves out of the house. Understandably, Ben feels that he has an interest in the property as he has contributed to the mortgage, bills and small renovations at the property, but in law does this constitute an interest?

However, to determine whether Ben has an interest, the court requires Ben to prove the following:

- 1 That there was a common understanding with Annie that he should have an interest in the property. And if so, in what shares?
- 2 That Ben has relied on that common understanding to his detriment.

## So, what does it mean to have a common intention?

The most important aspect of this stage is that there must be evidence of an agreement or common intention to share the beneficial interest. This evidence can be inferred from the parties’ conduct or dealings.

So, what evidence would Ben need to prove there was a common intention? Here, Ben would need to prove that there was either an oral agreement between the parties that he should have an interest in the property or secondly that there was a mutual understanding that arose as a result of the parties’ actions that he should have an interest in the property.

In the scenario above, it is clear that there was no discussion between the parties that Ben should have an interest in the property. What is clear is that the couple saw the property as their home. It may be possible to impute through Ben’s conduct that he did have an interest. We know that Ben paid towards the mortgage and also carried out improvements to the property. Further evidence would need to be gathered to prove his interest.

If Ben, can provide this evidence and it can be established that he does have an interest in the property, then it will be necessary to determine his share.

## What is detrimental reliance?

Detrimental reliance is an essential element in any case such as this. It is the existence of the reliance that gives Ben his remedy. Put another way, it is the existence of detrimental reliance that means that the court will uphold an oral agreement (or in some cases an agreement implied from the evidence) to transfer an interest in land.

If Ben cannot demonstrate that he has relied on the agreement or actions of Annie to his detriment, then his claim will fail. The detriment does not need to consist of the expenditure of money or other quantifiable detriment, it just needs to be something substantial that would make it unconscionable for Ben not to have an interest in the property.

In the scenario above, Ben would need to demonstrate that he would not have paid towards the mortgage and carried out the renovations if he did not believe he had an interest in the property.

**Claims of this nature, particularly where the legal title to the property is in the sole name of one party, can be complex and legal advice should be sought at an early stage.**

If you would like any advice about your interest in a property following a separation, you can contact our experienced **Property Litigation team**.



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# Landmark case: Husband of a wealthy heiress who drowned in a holiday cottage pool in Denmark is blocked from inheriting her £4 million fortune

In a recent case, a High Court judge has ruled that Donald McPherson unlawfully killed Paula Leeson by drowning her in the pool of their holiday cottage in an attempt to gain access to her £4.4 million estate.

## The Case: A Tragic Death in Denmark

Mr McPherson had claimed to be asleep when Paula died and said that her 13 injuries, including grazes and bruises, must have been caused by his attempt to drag her body from the pool. Paula's family, however, insist that she hated swimming and didn't even intend to buy a swimming costume for the trip that her husband had solely planned. Paula, they claim, had always preferred city breaks and would never have chosen the remote cottage as a holiday destination.

Prior to unlawfully killing Paula, McPherson both dishonestly forged trust documents in an effort to secure control over money payable on Paula's death and forged a signature of a supposed witness of her Will. Hours after his wife's death, McPherson transferred more than £20,000 from their joint account to satisfy his debts and ate a steak dinner.

Mr Richard Justice Smith stated that the "critical question" was how Paula came to be in the water, which was only 4ft deep, unable to save herself. He ruled that she must have been unconscious and that the distribution of her neck injuries suggested compression from an arm lock by her husband.

## Criminal Acquittal vs. Civil Proceedings

Despite being acquitted of murder in a criminal trial in 2021 due to insufficient evidence, McPherson faced civil proceedings by Paula's family who sought to block him from inheriting her fortune under the forfeiture rule.

The forfeiture rule prevents a person from profiting from the estate of someone they have unlawfully killed. Whilst McPherson was cleared in the criminal court due to lack of evidence, the civil court applies a lower burden of proof.

## Civil Judgment: Unlawful Killing on Balance of Probabilities

Mr Justice Smith found "without hesitation" that – on the balance of probabilities – McPherson had unlawfully caused Paula's death by compressing her neck in an armlock, rendering her unconscious and allowing her to drown.

He found that "It is no exaggeration to say that lies and dishonesty pervade every aspect of [McPherson's] life. [McPherson] lies to anyone if it might serve his interests." He continued that he could not begin to comprehend the "pain and heartache that [Paula's family] have experienced as a result of Paula's death."

## Forged Will Declared Invalid

In relation to the Will upon which McPherson had forged a witness' signature, Mr Smith found that Will to be invalid due to want of knowledge and approval. He found that Paula did not know or approve the contents of her purported Will, which is one of the requirements for a Will to be validly executed.

As a result of the High Court decision, McPherson – who Mr Smith found was "motivated by money" – has forfeited any entitlement to Paula's assets, including the +£3.9 million of insurance policies deceptively incepted by him.

## Impact of the Case

The case appears to be the first forfeiture claim following an acquittal before the criminal courts and reinforces the principle that civil cases can sometimes succeed where criminal prosecutions fail, particularly in cases involving serious allegations such as unlawful killing. The case is a huge breakthrough in the family's seven-year fight for justice; however, they have publicly stated that they "will not rest" until McPherson is behind bars.

Paula's family were represented at trial by Lesley Anderson KC of Kings Chambers, as well as Tom Gosling and Arianna Barnes of 23 Essex Street. The family's legal representatives have confirmed that they will seek to have the criminal investigations reopened based on the findings from the civil proceedings.

At Myerson, we have one of the largest teams of **Will dispute specialists** in the UK, ready to assist if you need expert advice or guidance.



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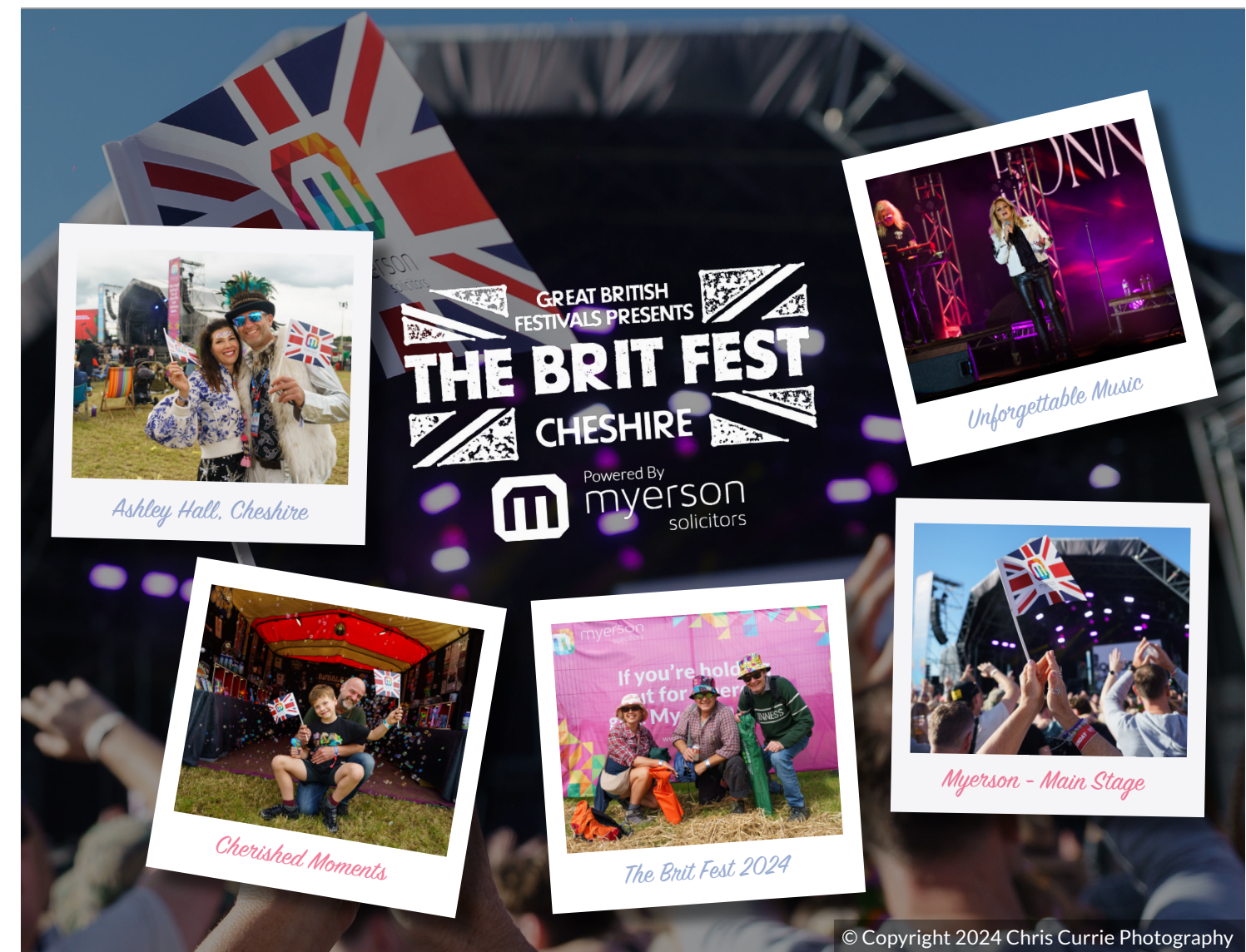
We're excited to share that Myerson is now the first law firm in Greater Manchester to be 100% employee-owned! Founded in 1982, we've grown steadily, and with 150 employees, we're now one of the largest employee-owned businesses in the UK.

This move ensures we remain independent and committed to serving you for the long term. As **Carl Newton**, our CEO, said:

*"Becoming employee-owned empowers our people, attracts top talent, and reinforces our commitment to stability and independence. It's a proud moment for all of us!"*

You can count on us to deliver the same exceptional service, with the added assurance that we're here to stay, more invested than ever in our future — and in serving you.

Learn more about what being employee-owned means to our team [here](#).



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## Throwback to The Brit Fest 2024: A Summer to Remember!

This July, Myerson was proud to sponsor The Brit Fest 2024, marking the first edition of what is set to become a hallmark summer event in Altrincham. Held from July 5<sup>th</sup> to 7<sup>th</sup>, the weekend offered a seamless blend of music, food, and entertainment, creating lasting memories for all in attendance. We were fortunate that the British summer weather was on our side.

The festival's line-up featured some of the most celebrated British artists, including powerhouse performances from Bonnie Tyler, Scouting for Girls, Heather Small, and Fleur East.

The Brit Fest delivered extraordinary moments that left the audience eager for more. The atmosphere was brilliant, and we are proud to have contributed to such a successful event.

As a firm deeply embedded in the local community, sponsoring The Brit Fest was an ideal opportunity to support both local businesses and the arts. We trust those who attended found it as memorable as we did.

If you missed out this year, don't worry – tickets for next year's Brit Fest are already on sale: <https://thebritfest.co.uk/tickets/>





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# Selling or purchasing a Property?



Our experienced, qualified property solicitors can assist with all residential sale and purchase transactions.

Our team is recognised as one of the friendliest and most approachable in South Manchester and Cheshire, whilst at the same time being the market leader in terms of service levels.

You will have one dedicated solicitor who will work with you and provide unprompted updates on the progress of your transaction.

## For more information

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[lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk) or call 0161 941 4000



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