



### In this issue

- The Bribery Act : can my corporate gift be seen as bribery?
- Olympic Legacy from Nockolds
- How to keep your Liability Insurance under control
- Company Car Insurance — what you need to know

### Events

Nockolds has a full and varied programme of events throughout the year from seminars to exhibitions. Each issue will feature our forthcoming events.

For more information please contact:

Jackie Ayliffe on  
jaa@nockolds.co.uk

### Harlow Business Exhibition

Nockolds LLP Solicitors are the proud sponsors of the Harlow Business Exhibition's Business Seminars Room.



The Nockolds' Seminar Room will be a hub of information and resources for small, medium and large businesses delivered by Nockolds, Bird Luckin and Business Link. Seminars will include an update on Employment Law, Debt Recovery and Cash Flow Management and Social Networking. To pre-register for these seminars contact: marketing@nockolds.co.uk

## Welcome to Nockolds Business Newsletter

Unlike other business newsletters this newsletter will provide you with up to date, relevant information and developments that will affect your business. As well as providing you with a round up of key areas of business law that are hitting the headlines, it will highlight the ways in which you can protect yourself and your company against prospective litigation.

In addition to our newsletter, you may also wish to look at our website where our news blog updates you on developments and key events as they happen. You will also find our **Quick Reference Guides** which help businesses navigate the legal maze.

What's more, we want feedback and comments on our articles and the newsletter format. We would be pleased to answer your questions and concerns you have so please contact us on **(01279) 755 777** and [newsteam@nockolds.co.uk](mailto:newsteam@nockolds.co.uk).

If you would like to keep up to date with our seminars, updates and regular blogs you can subscribe online at [www.nockolds.co.uk/subscribe](http://www.nockolds.co.uk/subscribe) or complete the form at the back.

We hope you enjoy our newsletter and look forward to your comments.

## The new Nockolds Website

### Join the conversation

2011 marked the revamp of the Nockolds website. "Our new website allows us to communicate with our clients in a different way" Jennie Jones, Partner & Head of Marketing, "The new site enables us to give immediate updates and comments on developments in the law which affect our clients on a business and personal level. The social networking areas also allow us to have online debates surrounding the issues in the public arena."

The website contains a new section dedicated to Resources with **Quick Reference Guides** to all areas of law from Employment and Commercial matters such as setting up your business to Family issues such as divorce. There is also a section dedicated to events taking place across the firm and our press activity. If you would like to keep in touch with legal developments you can sign up to our seminars, regular newsletter online and industry updates.

Our new website is [www.nockolds.co.uk](http://www.nockolds.co.uk) or you can connect with us on **LinkedIn** and follow us on twitter at **legal.expert**. We are always keen to receive any feedback, if you have any comments please contact us at [marketing@nockolds.co.uk](mailto:marketing@nockolds.co.uk).

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### Outsourced Legal Team

Nockolds Outsourced Legal Team provides bespoke legal support for small to medium sized businesses.

More



# The Bribery Act 2010: *At what point does my Christmas gift become bribery? Can I still accept Corporate Hospitality?*



Sarah Miles Corporate Team

The Queen formally gave permission for The Bribery Act 2010, to be made law in April 2010. This Act will come into force during 2011. In the meantime companies and individuals need to make sure that they understand the implications of the Act and the point at which the corporate gifts or entertainment could be construed as bribery. **Sarah Miles** explains the key aspects of the Act and how you can protect yourself against potential litigation.

**T**he Bribery Act 2010, applies to the whole of the UK and replaces all existing law on Bribery.

The new Act has looked at updating the law and improving its enforcement and outlines 4 categories of bribery offences

- 1) Bribing another person
- 2) Being bribed
- 3) Bribing a public official
- 4) Commercial organisations failing to prevent bribery

The last of these offences has caused the most concern for commercial organisations. It is committed where a **commercial organisation fails to prevent bribery by one of its employees, agents or persons connected with it**. The organisation does not need to be aware of the bribery for this offence to be committed. However there is a defence if the organisation can show they had in place adequate bribery prevention procedures. Therefore getting these procedures in place is vital.

## How does the Act affect corporate hospitality and gifts?

The Government's response to corporate hospitality is *'to the extent that reasonable hospitality is a normal part of business, we are not seeking to discourage such practices...'*

Nevertheless businesses will need to give thought to giving and receiving gifts, including corporate hospitality. The appropriateness of these gifts should be considered. In particular the timing, value and the intention behind the gift should be borne in mind, especially where such gifts are given or received during the course of commercial negotiations or a tendering process. A business' bribery prevention procedures should include a policy for giving and receiving gifts. This should include guidance on refusing gifts where they are considered inappropriate.

## Penalties

The penalties for committing the offences include fines and imprisonment. Companies convicted of corruption may also be permanently debarred from tendering for public sector contracts which is potentially very serious if your organisation relies on public sector contracts. Organisations should also appreciate the impact of adverse publicity if they are prosecuted for an offence under the Act.

The Government sets out procedures guidance on all legislation and although this has not yet been published for the Bribery Act 2010, there are steps that you can take to ensure that the 'adequate procedures' will be in place in time for the Act coming into force.

The draft guidance procedure sets out six principles for bribery prevention, for more information on these principles please see our **Quick Reference: Bribery Act 2010**.

## Bribery Act 2010: Quick Read

1. The Act looks at 4 categories of bribery—Bribing another person, being bribed, bribing a public official, commercial organisations failing to prevent bribery.
2. The last of these offences, Commercial Organisations failing to prevent bribery, causes the greatest concern.
3. Defence for an organisation is to show they had in place adequate bribery prevention procedures.
4. Businesses need to give thought to giving and receiving of gifts including corporate hospitality such as:
  - Timing of the gift.
  - Value of the gift.
  - Intention of the gift.
5. Penalties include fines and imprisonment.
6. Draft guidance on bribery prevention has been published. For more information contact [newsteam@nockolds.co.uk](mailto:newsteam@nockolds.co.uk) or read our Quick Reference: Bribery Act 2010 on [www.nockolds.co.uk](http://www.nockolds.co.uk)



# Nockolds News

## Nockolds Olympic Legacy—2012 Sailing Venue

On 6th of July 2005 the announcement was made that London had won the bid to host the 2012 Olympic and Paralympic Games. Weymouth and Portland is the chosen venue for the sailing event. Sustainability was at the heart of London's successful bid for the 2012 Olympic and Paralympic Games.

Our client, Zero C Holdings Limited, prides itself for leading the field in sustainable developments. Zero C is constructing 77 homes at Portland, to be built to a high level of sustainability. The homes will be heated by biomass district heating. The homes will have incorporated solar photovoltaics, wood pellet stoves and rainwater harvesting into the build. The homes will be used as the athletes village for the 2012 sailing event.

**Bilyana Munic** has been working with Zero C Holdings Limited for 6 years and has established Nockolds Commercial Property Team as experts within the field of Sustainable Builds. *"It is a privilege to be involved in this development, certainly the one that will ensure that the changes in construction are not only sustainable but will leave lasting improvements and a legacy for the whole community who live and work there, for those people who visit and all of us involved in it."*

For more information on Bilyana's work in Commercial Property please contact her on (01279) 712520 or email on [bzm@nockolds.co.uk](mailto:bzm@nockolds.co.uk)



Bilyana Munic  
Commercial Property



Gary Smith  
Employment

## Shielding yourself from expensive tribunal costs *Nockolds Employment Insurance*

Recently published employment tribunal statistics indicate that 2009– 2010 saw employment claims increase by 56% on 2008—2009 levels. With compensation awards for some tribunal claims being uncapped, the largest award made last year against an employer was in excess of £700,000. In an uncertain market and with the average award to a successful employee creeping ever higher, employers need to reduce any unplanned expenditure so that they can manage their cash flow and help secure the future of their business. As any employer will know employing staff always brings a degree of uncertainty as to what the future holds.

Nockolds LLP solicitors and Temple Insurance have worked together on a new service for businesses to help them manage their cash flow and provide peace of mind by introducing Nockolds Employment Insurance.

Businesses receive a full audit of employment documents, a helpline for employment advice, where businesses can speak with experienced employment solicitors, and insurance to cover all legal costs associated with fighting tribunal claims, as well as any adverse awards in the unlikely event the business was to be unsuccessful.

For further information contact **Gary Smith** (01279) 755 777 or email [gss@nockolds.co.uk](mailto:gss@nockolds.co.uk).

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## Focus on ...Charity

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*Much has been either read or heard about recently from the Government concerning the “Big Society” and the need for local organisations, charities or not for profit bodies to take responsibility for local affairs and in particular to take on services and assets at present run by Local Authorities. Whether or not you agree with this state of affairs will no doubt depend on your political allegiance but there is no doubt that it is happening and that this is only the start.*

As an example Nockolds charity law team has recently been instructed in a substantial property asset transfer from a Local Authority to a charity set up specifically for the purposes of running the asset as a commercial enterprise. Nockolds have advised on the various ways forward and vehicles that are available. Having agreed that an incorporated charity would be most appropriate they have now formed a company and are in the process of registering it as a charity and advising the trustees.

The intent is that the property will then be leased to the charity who then expect to be able to make substantial savings on current running costs and to operate at a profit – although that “profit” will be ploughed back into the charity. At the present time the asset is operating at a loss which is being borne by taxpayers.

This is just one example of many similar that are no doubt being discussed all over the country. One common denominator is that like any business transaction (which after all this is) good advice is needed by all parties as the potential liability on individuals and on the charity can be severe if the wrong options are taken. Nockolds charity team incorporates expert lawyers (who themselves have personal experience as trustees of charities) in property, charity and employment law so that every aspect is covered and trustees can feel secure in what they have taken on. For more information contact **Clive Wadham-Smith** on [cws@nockolds.co.uk](mailto:cws@nockolds.co.uk) or call him on 01279 755777



Clive Wadham-Smith  
Corporate Team

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## Upcoming Events and Seminars

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**Harlow Business Exhibition**  
Tuesday 14th June 2011

Nockolds are the proud sponsors of Harlow Business Exhibition's Business Seminars Room.

The Nockolds Seminar Room will be a hub of information and resources for small, medium and large businesses provided by Nockolds, Bird Luckin and Business Link.

Seminars confirmed so far on Employment Law, Debt Recovery and Cash Flow Management and Social Networking.

To pre-register for these seminars contact: [marketing@nockolds.co.uk](mailto:marketing@nockolds.co.uk)

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## Events and Seminars Reviews

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### *Employment Seminars:*

2010 saw one of biggest changes to Employment Legislation we have seen for many years. The consolidation of the Discrimination Acts into one Equality Act 2010. The seminars focussed not only on the areas of concern for organisations but also ways in which organisations can limit liability by simple straightforward steps. Seminars were held in Bishop's Stortford, Harlow and Ware.

Following a hugely successful series of Employment Seminars Autumn 2011 will see another round of essential Employment Updates for Businesses. Look out for details on our website and forthcoming newsletters.

**Human Resource Forum:** Each issue Nockolds Commercial Division will look at some of the current issues that affect businesses human resources function

## Company Vehicle Insurance

There has been an alarming increase in the police impounding company vehicles in recent times and taking companies to court for no insurance offences. The reason for this is twofold. Firstly the police have Automatic Number Plate recognition software or (ANP) that means that an insurance database can be contacted electronically to check if drivers are insured. Secondly insurance companies are becoming very keen to check policy details to save money for themselves and those that are correctly insured with them.



Pete Dodd  
Road Traffic & Crime

We have seen a number of companies fall foul of the law which means that either companies or individuals have been convicted and fined and in some cases given points for offences caused by the acts or omissions of their business colleagues and/or employees

In order to prevent fines and potential disqualifications it is vital that the business at all levels knows who is being insured and for what purpose. For instance all employees that drive in the course of their employment need to be aware of the terms of the insurance certificate. Business owners should, as a matter of good practice, check their insurance terms regularly. They should also check their employees are fully licenced, have declared any points on an on-going basis and have not been disqualified from driving. If a business is feeling the financial pinch do not be tempted to renew on a policy of insurance that does not cover the company drivers. For more information on motoring matters please contact **Pete** on [ped@nockolds.co.uk](mailto:ped@nockolds.co.uk).



Ivan Moody  
Defendant Insurance  
Litigation

## Managing your Employer's Liability Premium

In this issue, **Ivan Moody**, outlines the ways in which you can keep your premiums down and protect yourself against employee claims.

As an employer you are required by Law to have in place Employer's Liability Insurance and this can become very expensive especially if you have to claim on that insurance. So what can you do to keep your premiums down? The answer is to do everything possible to ensure your employees are safe and do not have accidents. But to put you in the best position here are a few suggestions of what you should have in place (it is not exhaustive):

*Risk Assessments* – look at all the tasks your employees have to undertake and write down the risks involved with each of the tasks.

*Method Statements* – once you have assessed the risk consider what you can do to make the task safer and then produce a document to show how the task should be undertaken.

*Training* – If staff are properly trained they are less likely to have accidents. This can be on the job training or training provided by an external contractor.

*Tool Box Talks* – This may come under the heading of training but whenever you employ a new member of staff they must be given an induction and an explanation as to how things work and how your company operates.

*Health and Safety Officer* – This person will be responsible for ensuring the safety of your staff so ensure they are properly trained (please note this does not absolve you from responsibility for the safety of your staff). It need not be their only role in the Company but ensure they have sufficient time to do this role and they go on training courses to ensure they can undertake this part of their job properly.

Ensure that all your staff are aware of the existence of the documents mentioned above, have read them and understand them. It is pointless creating all the documents if nobody reads them. For more information, please contact **Ivan** on [imoody@nockolds.co.uk](mailto:imoody@nockolds.co.uk) or 01279 712534.

*“Small businesses aren't just big ones that have shrunk, they have a whole lot of different range of issues.”*

David Gill, Managing Director, St. John's Innovation Centre



**W**ith the Government's latest announcement concerning the change of London's Olympic Village to a technology centre in the East End of London it is clear that small business and incubation centres are seen to be a key player in the UK's economic recovery.

However all too often when you are managing your own business your focus is on the here and now and your expertise is within the area of your business. David Gill, of St. John's Innovation Centre, Cambridge, attributes the phenomenal success of Cambridge's Silicon Fen to a number of key factors:

- The existence of a research engine generating good basic research.
- Serial entrepreneurs.
- Good range of professional advisors who know what it is like to deal with small businesses.

Alongside Accountants, Lawyers are one of the essential professional advisors that business owners and decision makers need, working alongside them in the back ground, ready to support when necessary. Traditionally Lawyers have been seen as the point of call when things go wrong—another emergency service— however, there are often many preventative steps that can be taken.

Nockolds Business Division are shaking up the perception of the “*ambulance chaser*” and “*scaremongerers*” with the Outsourced Legal Team. Like a good accountant, the Outsourced Legal Team will take time to get to know your business, using their experience to identify the potential problems that you may be exposed to and working with you to calculate the risks associated with these problems. In addition you have a named contact—an experienced qualified solicitor from our Business Division, who will have access to the entire range of business services such as Dispute Resolution, Commercial Property, Company Commercial (setting up, development, mergers and acquisitions) Debt Recovery and Employment. These services are available to the Private, Public and Voluntary Sectors in the form of charities and with our International Team we can support you Internationally.

Knowledge: We take the time to get to know you and your business.

Proactive: Using our experience to identify potential problems.

Realistic: Calculating the risks associated with potential problems.

Preventative: Working with you on preventative action.

Accessible: Named contact dedicated to you with access to all Nockolds business services.

Across Sectors: Supporting the Private, Public and Voluntary Sectors.

The Outsourced Legal Team is managed by **Sarah Miles** so contact Sarah if you would like to discuss this service and how it may assist your business (01279) 755777 or at [smiles@nockolds.co.uk](mailto:smiles@nockolds.co.uk).

# Budget Review 2011

## Highlights of property implications

Following the recent 2011 budget, **Alison Hare** from our Commercial Property Team sets out the implications for property developers:-



Alison Hare  
Commercial Property

1. Extension to the First Buy Scheme, the Government is to provide loans, jointly with house builders, to first time buyers to help with deposits. See Michael Stark's blog for more details.
2. Reforms are proposed to encourage sustainable developments, there will be a presumption in favour of applications of this kind.
3. National targets imposed on brown field sites are to be relaxed.
4. Consultation will begin on whether to make it easier to convert commercial premises into residential property.
5. The Government will speed up the process for sale of publicly owned property, particularly surplus military land.
6. Auctions of planning permissions on land will be trialled for the first time, starting with publicly owned property.
7. The planning system is to be speeded up, there will be a new 12 month limit for the processing of planning applications, inclusive of any appeals process.



Sarah Miles  
Corporate Team

## Corporation tax changes and how it will impact on UK businesses

In the 2011 budget the main rate of Corporation Tax, applicable to larger companies, has been reduced by 2% to 26% rather than the planned reduction of 1%. As **Sarah Miles** of Nockolds Corporate team explains, "*further cuts over the next three years will see Corporation Tax reaching 23% by 1 April 2014. Britain currently has the sixth highest rate of Corporation Tax in Europe. However by 1 April 2014 when the rate has reached 23% it will have the lowest rate of Corporation Tax in the G7 and will be 16% lower than in America. The aim of these changes is to make trading in the UK via a limited company more attractive.*"

Cuts in capital allowances will partly fund these measures, mainly affecting smaller companies. The changes to the allowances regime will however be delayed for one year. Furthermore the rate of Corporation Tax for small companies (those with an annual turnover of less than £300k) which was set to increase from 21% to 22% will be cut to 20% from 1 April. Overall the additional reduction in the rate of Corporation Tax and the planned further cuts must be good news for businesses and will hopefully encourage business growth and investment.

# Private Client Round Up

- Family Team: Nockolds Aid**

Solicitors respond to the announcement of Legal Aid Cuts with the introduction of Nockolds Aid - means and merit tested legal representation for a fixed fee.

- Probate Team: Free Phone Probate Advice**

Losing loved ones and being an executor comes with its own set of unique stresses. In addition the Probate process can be complicated and daunting. Nockolds Probate team therefore provide initial free advice on 0800 7555 777 to individuals on the issues surrounding Probate.

- Moving House: Transparent Fees Comparing Apples with Apples**

How to compare conveyancing quotes? Nockolds Residential Property team provide a list of need-to-know questions to ask solicitors and conveyancers.

**Your questions:** your opportunity to ask the experts the answers to those burning questions.

**Q. I heard about the recent sacking of Andy Gray, Sky Sports presenter. What can I do to protect my business from a claim?**

A. If there is an allegation of harassment then the matter should be fully investigated without delay under the Grievance Procedure. If the finding of harassment is made, then the employer should consider whether this constitutes disciplinary action and follow the Company Disciplinary Procedure. Depending on the circumstances the employer may be justified dismissing the harasser on the grounds of gross misconduct.

If the claim should be brought against the Company in an Employment Tribunal, there is a defence for the employer to show that it has taken all reasonable practical steps to have eliminated discrimination in the work place. I recommend employers to have an up to date Equal Opportunities Policy that is communicated and circulated to all members of staff. Managers and Supervisors should also be trained in Equal Opportunities and Diversity. For more information contact **Bev Moseley** on (01279) 712572.



**Want to find out more?** Sign up for our regular updates and newsletters to ensure you are up to date with topical legal changes.

Please tick your area of interest and return it to us by fax or email and we will inform you of events and updates in these areas:

|               |  |            |  |
|---------------|--|------------|--|
| First Name    |  | Surname    |  |
| Email Address |  | Telephone  |  |
| Address       |  |            |  |
| Town          |  | Post Code: |  |

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