

# myerson MAGAZINE

ISSUE 14 // SPRING 2024



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# Can I be made redundant when I'm pregnant or on maternity leave?

It is estimated that there are over 590,000 individuals in employment who are pregnant. In a recent survey conducted by the campaign group **'Pregnant then Screwed'**, 7% of their survey pool confirmed they had lost their job through redundancy, sacking or feeling forced to leave. If this is scaled up to reflect the employment statistics, this could mean that as many as 41,000 pregnant employees or new mothers are sacked or made redundant every year.

These shocking statistics show that this is a common occurrence and is often when individuals are feeling their most vulnerable and least able to look for alternative employment.

It is therefore important to understand the obligations that employers are bound by whilst you are on maternity leave and what rights you have in a redundancy situation.

## Your contractual rights

During your maternity leave, with the exception of pay, all of the terms and conditions under your contract of employment are protected. This means that your length of service is not broken by taking maternity leave. It also means that you continue to accrue your holidays and will be entitled to all contractual benefits and pay rises. Some particular types of bonus schemes and incentives are also protected.

## Your role when you return

All employees have the right to return to the same job (or a similar job with no less favourable terms) as the one they had before they went on maternity leave. If an employer says that a person cannot return to the same job, then this may give rise to a claim for unfair dismissal as well as discrimination.

## What if there is a redundancy situation?

A genuine redundancy situation only occurs in three types of situation:

- 1 **Business closure: the organisation is closing or has already closed.**
- 2 **Workplace closure: the organisation is closing the location that you operate from.**
- 3 **Reduction of the workforce: the organisation is changing the types or number of roles needed to do certain work.**

It is unlawful discrimination to be made redundant because you are pregnant or on maternity leave. Further, where there is a possible redundancy situation, the employer must speak with all 'at risk' employees and this includes those who are off work with pregnancy-related sickness or are on maternity leave. Otherwise, if you are excluded from a consultation that is also discriminatory.

## Selection for redundancy

Unless the employer is making everyone at a particular site or everyone in a particular role redundant, it will need to use a selection process to decide who will be made redundant. During this process, employees will be divided into pools and should be scored against a set of objectives and measurable criteria. These usually include skills, performance, attendance, and disciplinary record.

It is unlawful discrimination to use criteria that would disadvantage you because you are pregnant or on maternity leave. For example, any absence caused by your pregnancy or maternity should be discounted or, if you have missed a performance review cycle because of a pregnancy-related illness or your maternity leave, then your employer should consider using your previous review.

You have the right to know the selection criteria used and how you have been scored. If you disagree with your scoring, then you have the right to discuss and challenge this during consultation.

## Alternative roles

During consultation, the employer must consider ways to avoid a redundancy, including whether there are any alternative roles.

Currently, if you are selected for redundancy while on maternity leave and there is a suitable alternative job available, you have the right to be offered this role before anyone else, even if they are also at risk of redundancy. However, this is limited only to those who are identified and confirmed as redundant during the period of statutory leave and does not apply if you have returned from maternity leave.

However, new law was brought in 2023 to extend the period of this protection. The Protection from Redundancy (Pregnancy and Family Leave) Act 2023 provides for Regulations to be made to extend the current right to be offered suitable alternative vacancies in a redundancy situation to pregnant employees, employees who have recently suffered a miscarriage and employees who have returned from maternity leave (as well as those who have returned from adoption leave or shared parental leave).

The Regulations (the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024) are currently in draft format but are expected to come into force on 6 April 2024. If brought into force as drafted, the right to be offered a suitable alternative vacancy in a redundancy situation will apply during a new 'protected period' which starts on the date when the employee notifies their employer of their pregnancy and ends 18 months after the child's birth. This therefore extends the current protection to those who are pregnant and those who have returned from maternity leave.

## You may still be entitled to maternity pay if you are made redundant

If you qualify for statutory maternity pay and are made redundant before going on maternity leave but after the beginning of the 15th week before your baby is due, then you will still be entitled to all your statutory maternity pay, as well as any redundancy payment. If you are entitled to additional contractual maternity pay then this would usually end when your employment ends unless your employer agrees otherwise.

## Take action quickly!

We encourage you to seek advice as soon as possible if you think you have been discriminated against because of pregnancy or maternity leave or if your employer has failed to offer you a suitable alternative role. The time limit to bring a claim in the Employment Tribunal is only three months (less one day) from the act of discrimination or date of redundancy. This is an extremely short period, let alone when you are pregnant or have a new baby to look after! There have been various campaigns lobbying to extend this time limit. However, to date, there is no indication that the Government will change this. It is, therefore, crucial that you seek advice quickly to understand your position.



Speak to one of our  
**Employment Lawyers**  
Call **0161 941 4000**  
Email **lawyers@myerson.co.uk**



# Should I extend my lease?

Homeowners may be aware that the Government is making it easier, and, in some cases, cheaper to extend a lease. However, we are unclear about when the reforms will take effect.

Under the current rules, you can either proceed under the informal route, whereby a leaseholder can approach the freeholder to ask whether they will negotiate a lease extension. There is no obligation on the freeholder to respond or even agree to the lease extension. If the freeholder does agree, the parties will negotiate the terms and amount to be paid for the lease extension.

Starting the process informally could save time and money. However, there are risks with going down this route, as the freeholder may only agree to extend the lease by including onerous terms in the lease or for a high premium.

However, you can also proceed under the statutory route, which sets out that a leaseholder who has held the lease for the past two years is given a right by law to extend the lease by an additional 90 years with the ground rent becoming a peppercorn i.e. nil. You will expect to pay a premium to the landlord to extend the lease, which is made up of an amount to cover the ground rent that will no longer be paid. If the lease term is below 80 years, then an additional premium is payable called the marriage value.

## What are the proposed changes?

All leaseholders who can extend their lease will have the right to do so up to 990 years. Under the current legislation, leaseholders of flats can extend leases of flats as for a 90-year period. Whereas leaseholders of a house are only entitled to extend their lease once for a period of 50 years.

The marriage value will also be removed from the premium calculation making it cheaper for those with a lease term below 80 years to extend their lease.

The premium payable to extend a lease will also be made simpler and there will be an online calculator available to assist leaseholders to find out how much it will cost to extend the lease.

The formula for the premium will include a discount for any improvements the leaseholder has made and a discount where leaseholders have the right to remain in the property on an assured tenancy after the lease expires.

Another proposal is that some leaseholders will no longer have to cover the freeholder's legal and valuation fees.

Furthermore, leaseholder will not need to wait two years before being able to extend their lease, which is a current requirement.

## When will the changes take place?

Unfortunately, there is no definitive timetable for when the Leasehold and Freehold Reform Bill will become law. However, the bill is currently making its way through Parliament. The Government has suggested that it might happen this year and would like it to occur before the next election. However, there are no current proposals for it to come into force.

So, the question many leaseholders ask is whether you should extend now or wait for the changes to come into effect.

This would ultimately depend on your individual circumstances, as there may be a number of factors affecting your decision for example, a sale of the property or whether you need to re-mortgage.

If a lease is under 80 years, then it may be difficult to sell or re-mortgage, which will mean it is necessary to extend your lease. However, you will need to consider that a marriage value will be payable in addition to the premium.

## How can Myerson assist you?


If you decide to extend your lease and proceed down the statutory route, then the first step is to serve a notice on your landlord. We can prepare and serve the notice on your behalf. We can also advise you on the landlord's counternotice. Thereafter, there are very strict timelines that need to be adhered to in order to ensure you do not lose your right to extend your lease. We will note these dates and will undertake the relevant steps to protect your position. This may involve issuing proceedings at the First Tier Tribunal if the parties are unable to agree the terms.

Once the parties have agreed the terms for the lease extension (either under the voluntary or statutory route) our residential property team can review the draft lease, complete it on your behalf and register it at HM Land Registry.



Speak to one of our  
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Call **0161 941 4000**  
Email [lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk)





# The danger of overlooking pensions and the motherhood penalty

When couples are separating, often their immediate concern will be about where they are going to live, rather than thinking about their income in retirement.

It is very easy to overlook pensions, as retirement can seem a long way off, and you may be more concerned about how your immediate housing and income needs will be met.

After the family home, the pensions are likely going to be the most significant asset. Ignoring pensions can leave a lot of people, particularly women, in a worse financial position after the divorce.

In proceedings for divorce, nullity, or dissolution of a civil partnership, the court has the power to share pension savings between the parties under a pension sharing order.

As part of the financial disclosure process in divorce, both parties should exchange financial disclosure to include details of all income, capital, property, pensions, and liabilities. With reference to pensions, the first step is to find out how much the pensions are worth and both parties will need to obtain the cash equivalent value of their pensions. It can take a number of weeks to obtain these valuations and therefore, your solicitor should assist you with this from the outset of instruction.

Once financial disclosure has been exchanged and all pension valuations obtained (bearing in mind that some individuals may have multiple schemes), it may be necessary to involve a pension actuary or pension on divorce expert. They can provide further in-depth valuations and expert opinion to consider how the pensions can be divided fairly on divorce. There are many different types of pension schemes and their complex nature means that it is important that you seek specialist advice early on.

**There are several options available when dealing with the sharing of pensions.** Pensions can be divided in accordance with the income they will produce, or according to the cash equivalent valuations, or, based on their capital value. Pensions can also be offset against other financial assets.

Evidence suggests that men tend to have substantially more in their private pension pots than women. Typically, this will be because women are more likely to have taken a career break to have children or have been the homemaker and/or primary care giver throughout their adult life. Their husband may have worked since a young age and has been able to climb the career ladder and therefore able to invest in workplace or other privately acquired pensions.

The 19th annual Women and Retirement Report has revealed that **the 'motherhood penalty' – the financial and career disadvantages faced by mothers and caregivers, has an enduring impact in later life.** This is exacerbated for single mothers, who are unable to share the childcare responsibilities and costs with a partner, often forcing them out of the workplace. The gender pension gap is calculated at 39%; a 39% difference in pension savings between men and women at retirement age.

If you are going through a divorce or dissolution, **it is therefore crucial that pensions are considered as part of your financial settlement.** You may be in a position where your spouse/civil partner has a significantly larger pension pot than you, leaving you in a very vulnerable position in older age if you did not share in that pension income in divorce, as you would do if you were to remain married or as civil partners.



Speak to one of our  
**Family Law Team**  
Call **0161 941 4000**  
Email **lawyers@myerson.co.uk**



# Lasting Powers of Attorney – Change is Coming

Powers of Attorney have been around in some format since the 1970s, evolving from the Powers of Attorney Act 1971, to the Enduring Power of Attorney Act 1985, to the Mental Capacity Act 2005, and latterly the Powers of Attorney Act 2023 which brings us up to date and aims to modernise the process of making a Lasting Power of Attorney (LPA).

LPAs are legal documents that you create to give authority to someone you know and trust (Attorney) to make important decisions about your health, welfare, finances and property if you ever lack capacity to make such decisions for yourself. For the property and finances document, you can choose to use this out of convenience as well as necessity, which makes it very flexible.

The current process to make an LPA involves completing a paper or electronic form, which all parties must sign with wet ink signatures. It is essential that all parties sign in a certain order and that each person meets the requirements to act as in their specific roles as an Attorney, Certificate Provider or independent witness. The person making the LPA (Donor), or their Attorney(s) can apply for the LPA to be registered once it has been completed or at a later date, possibly after the Donor has lost capacity. It can take up to 16 weeks to complete the registration process.

The new digital process promises to be simpler and quicker, aiming to significantly reduce the time it takes to make an LPA, as follows:

1. Parties will be able to choose whether to sign the LPA digitally, using wet ink signature or by a combination of the two.
2. The Donor will be the only person who can register the LPA. It will be important to ensure the LPA is registered as soon as the LPA is completed to avoid the risk of the Donor losing capacity before registering it.
3. To protect against fraud and abuse, the new process will include new identification requirements. It is expected to ask for documents such as a passport or driving licence that will need to be verified.
4. It will be easier to obtain additional official copies, which you will be able to obtain online instead of needing to obtain certified copies.
5. There will be a wider group of people who can raise objections to a proposed LPA. We anticipate that this will result in an increase in disputes relating to LPAs.

The proposed changes are certainly a positive step towards the digital age that we now live in and we welcome the opportunity to help people who live further away because it has so far been very difficult to deal with LPAs remotely. However, we are yet to see how the online system and additional safeguards will work. Extensive testing and training will need to be carried out to ensure that the process meets its objectives and is secure.

At Myerson, we often act as a Certificate Provider, which means that we sign the LPA to certify that the Donor has mental capacity and is executing the document of their own free will and not acting under duress. It is not yet clear what responsibility a Certificate Provider has to confirm the mental capacity of the Donor under the new system, which we believe potentially leaves scope for issues. The laws of making LPAs will not change and it is still important that all parties involved in the process seek advice to ensure they understand the legal principles and their obligations. Any Powers of Attorney made under previous legislation may still be effective but, as with all legal documents, they should be periodically reviewed and checked to see if they are still fit for purpose or whether they should be updated due to changes of family or financial circumstances.

For those of you who would like to put an LPA in place but do not have close or trusted family and/or friends to make decisions about your property and financial affairs, it is still possible to appoint professionals to assist. At Myerson, we have our own Trust Corporation (Myerson Trust Corporation) who will be able to act as an independent Attorney if there is no one else appropriate to act.

If you would like further information about how we can help to set up a new LPA or to review existing arrangements, [please contact our specialist solicitors in our Wills, Trusts and Probate team today.](#)



Speak to one of our  
**Wills, Trusts and Probate Team**  
Call **0161 941 4000**  
Email [lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk)

# Am I entitled to see any documents relating to a relative's Will?

Under English law, a person is allowed to choose who benefits from their estate, and how. However, there are certain safeguards – if a person who lacks mental capacity or is subject to undue influence attempts to make a Will then it can be declared invalid, and if the Will does not make 'reasonable' financial provision for a family member or dependant then it can, in effect, be varied to do so.

When presented with a Will which raises concerns, the first step is often to obtain more information and to seek to look at documents relating to the Will and its preparation. This may involve seeking a copy of the 'Will file' from the solicitors who drew up the Will, together with looking to obtain further documents. This article provides a brief introduction to the types of documents that can be obtained.

## Solicitor's Will file

A person who is concerned about the validity of a Will can request information and documents from the solicitors who drafted it. This is usually done by submitting a 'Larke v Nugus request' (named after the relevant case) in which you request a copy of the 'Will file' from the relevant firm. You can usually expect to find the following in a Will file:

- Notes of any calls and meetings with the person who made the Will (referred to as the 'testator'). These should contain details of the instructions provided by the testator, what was discussed during the meeting or calls and the solicitor's advice.
- Any letters sent to the testator setting out advice and providing drafts of the Will.
- A copy of the executed Will.
- A copy of any previous Wills (if the testator had a previous Will and passed a copy to the Will drafting solicitor).

Solicitors have professional obligations when receiving a Larke v Nugus request and usually, provided the executor(s) appointed under the Will consent, the relevant documents will be provided. However, there may be some categories of documents which are not included in the response to a Larke v Nugus request because they are confidential or because the solicitor does not hold them.

## Letter of wishes

A letter of wishes is a document drawn up to accompany a Will. It is not legally binding but provides guidance to the executors (or will trustees) as to how to administer the relevant parts of the estate. The starting point is that, while Wills are public documents once Grant of Probate has been issued, any accompanying letters of wishes remain confidential between the deceased and their executors.

Although traditionally letters of wishes are not viewed as disclosable, in recent cases the direction of travel appears to be towards the idea that they should be disclosed in certain situations. We have recently written commentary on a case in this area if you are interested in *further information*. There may, therefore, be an argument that a letter of wishes should be disclosed alongside the will file materials detailed above.

## Other evidence

Medical records will often be important in establishing whether a testator had capacity at the time of making their Will (or if they were susceptible to undue influence or

otherwise vulnerable at any time). A Will file might contain notes as to the impression formed by the solicitor regarding the testator's mental health and – if one has been obtained – any opinion from a GP or other medical practitioner regarding this issue. However, in addition, a person looking to establish the testator's health and mental capacity at the relevant times can apply under the Access to Health Records Act 1990 for medical information.

Finally, the evidence from any witnesses and/or people who were present around the time of the Will being made can be highly relevant, though care needs to be taken in gathering such information.

There are usually several different options available for obtaining information. If you would like advice on this area, and Will challenges generally, [please get in touch with our team of experts](#).



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# Should I buy the freehold to my house?

The Leasehold Reform Act 1967 (the 1967 act) gives leasehold tenants of houses the right to buy the freehold. The right to buy the freehold (and any intermediate leasehold interest, for example the head lease) without the landlord's agreement is called 'enfranchisement'. Some landlords will sell the freehold without you needing to make a formal claim.

The 1967 act has been amended and extended over the years, which has made the rules for calculating the price complicated. The latest amendments are set out in the Commonhold and Leasehold Reform Act 2002, which simplified the rules for qualifying for enfranchisement and gave leaseholders extra rights. However, there are qualifying criteria that the house, the lease and you will have to meet, which are set out further below.

## The house

The house must be a building which is reasonably considered a house, divided vertically from any adjoining house. It does not matter if the building has been divided into flats as long as you have the lease of the whole house.

## The lease

It must be a long lease, originally for a term of more than 21 years or with a right to renew.

## Is it worth it?

A homeowner may ask: is it worth purchasing the freehold to your home? It can provide you with more control of the property and you won't have to pay annual ground rent. It will essentially provide you with freedom from the landlord as you will own the ground that your property sits and you will be able to make alternations without seeking consent of the landlord.

## How much will it cost to buy the freehold?

There are different valuation methods to determine the premium. However, there are three factors used to calculate the premium, which are: the current value of the property, the annual ground rent and the remaining term on the lease.

Valuing the freehold of a property is a complex process that will involve a surveyor. Most houses qualifying under the legislation will be valued according to the Special Valuation Basis. However, there is also the Original Valuation Basis.

The Original Valuation Basis – is used when a property qualifies under the original low rent test.

The Special Valuation Basis – is used where a property does not qualify under the Original Valuation method.

In addition to the premium, you will need to factor in additional fees such as legal fees, property valuation fees, stamp duty and the freeholder's costs.

## How can Myerson assist you?

If you decide to extend your lease and proceed down the statutory route, then the first step is to serve a notice on your landlord. We can prepare and serve the notice on your behalf. We can also advise you on the landlord's counternotice. Thereafter, there are very strict timelines that need to be adhered to in order to ensure you do not lose your right to purchase the freehold. We will note these dates and will undertake the relevant steps to protect your position. Once the parties have agreed the terms for the freehold purchase (either under the voluntary or statutory route) [our residential property team](#) can document this on your behalf.



Speak to one of our  
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## Securing the Future: An On-Demand Webinar on Succession Planning for Business Owners

In the fast-paced world of business, one aspect often overlooked is the strategic planning for the future, especially when it comes to ensuring a seamless transition of leadership. Succession planning is a critical component that can make or break a business. Understanding its significance, Myerson proudly presents a Private Wealth seminar, 'An Introduction to Succession,' now available to watch on demand.

Succession planning is more than just identifying a successor; it's about securing the longevity and prosperity of your business. At Myerson, we recognise the complexities that business owners face in this realm and have crafted an insightful webinar to guide you through the crucial steps needed to ensure you a robust succession.

### Learn about:

- Exit types, including: sales, management buyouts, private equity and employee ownership trusts
- Planning and timetable to exit
- Tax, restructuring, recruitment and retention
- Post exit planning, including, inheritance tax planning, wills, trusts and re-investment

Presented by **Scott Sands**, Partner in our Corporate Team, and **Laura Willis**, Senior Associate in our Wills, Trusts and Probate Team.



**WATCH HERE >** (This will take you to our website)



## Unlock the Ultimate Brit Fest Experience: Win Family Tickets with Myerson!

Are you ready to immerse yourself in a weekend of British music and family fun? Myerson is thrilled to offer you the chance to win 4 Weekend Tickets (2 adults; 2 juniors) to The Brit Fest 2024!

The Brit Fest is a three-day extravaganza from July 5-7<sup>th</sup>, 2024, at the picturesque grounds of Ashley Hall & Showground, Altrincham. With headliners like Bonnie Tyler, Scouting for Girls, Kim Wilde, and Heather Small, it's a celebration of British culture and talent like never before.

In addition to live music, enjoy a 100-acre playground of family activities, including a free family cinema, woodcraft and whittling, food and drink festival, artisan market, and garden party.

As proud sponsors of this thrilling new festival, Myerson Solicitors are excited to share the magic of Brit Fest with you!

### How to enter?

Go to our competition form [here](#) and fill in your contact details before the May 22, 2024 – competition open to over 18s only. Winners will be drawn randomly and announced from May 25, 2024. Don't miss out on the chance to make your summer unforgettable at Brit Fest 2024!

**JULY 5, 6 & 7 – 2024**  
**ASHLEY HALL SHOWGROUND,**  
**CHESHIRE**







# Brit Fest Special – An interview with Kim Wilde

by Altrincham Today

## What's your favourite memory of playing in the Manchester area before?

"I have loved gigging in Manchester many times since my career began in 1981, most recently on my Greatest Hits Tour in 2022 at The Bridgewater Hall. We especially enjoy playing in Manchester as quite a few of us have family there, including our Manc keyboard player Stevie; the atmosphere is always amazing."

## You were the most charted British female pop star of the 1980s - how do you look back on those times now?

"It was great to be a young Pop Star in the 80's, doing TOTP with all my fav bands, travelling all over the world doing what I loved. Music was always my focus; recording and working with my Wilde team gave me independence and security in a business that can still be very fickle. I look back with great fondness and still pinch myself that I was a part of that amazing musical decade."

## You've recently marked 40 years in the music business - how have you been enjoying your most recent chapter on stage?

"I've never enjoyed performing more than over these past few years, especially since my 'Here Come The Aliens Tour' in 2018 where I indulged in some rather fab galactic costumes! I have an amazing band, several of whom have played in my band for well over 20 years, it's like a second family... in-fact two of my family ARE in the band: Ricky Wilde the MD and my lil bro, songwriter and producer, as well as his daughter Scarlett, my backing singer and also songwriter, artist and recently a mum for the first time!"

## What can people expect from your live show at The Brit Fest?

"There are seven of us on stage, we play my biggest hits with a few surprise additions! The set is very energetic and loud, we take no prisoners and love every moment we're on stage!"

## Who are your best friends on the nostalgia circuit and who will you be looking to seeing perform at The Brit Fest?

"I'm looking forward to seeing 'Hot Chocolate' who shared my first record company with me (Mickie Most's RAK Records) when my career began in 1980/81. I haven't seen Paul Young for ages, or Nik Kershaw; can't wait to give them hug! Also 'Johnny Hates Jazz' (I sang on 'Turn Back the Clock'), 'The Real Thing' who's gig I went to as a teenager and of course my dearest buddy Carol & T'Pau."

## Do you have any plans to make any more new music, and what are you looking forward to the most in 2024?

"Our gig sheet is already very busy for 2024; Ricky, Scarlett and I have already started writing songs for the next album which should drop next autumn... very excited about that."

**Kim Wilde will be performing at  
The Brit Fest on Saturday 6<sup>th</sup> July 2024.**

[Click here](#) for tickets sale and  
full line-up.



ASHLEY HALL &  
SHOWGROUND



JULY 5,6,7  
2024



**BONNIE TYLER**  
**SCOUTING FOR GIRLS • KIM WILDE**  
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**HOT CHOCOLATE • NIK KERSHAW • PAUL YOUNG**  
**THE BLUETONES • THE CHRISTIANS**  
**TUNDE VOICE OF LIGHTHOUSE FAMILY**

**CASSIDY JANSON • CHRIS HELME**  
**DENIECE PEARSON VOICE OF FIVE STAR**  
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