



Brian Farrington Limited
Procurement and Business Solutions People
November 2004 Newsletter

**The impact of e-mails
on contract.**

We are regularly asked about the use of e-mails in regard to contracts. As part of our research for a client we came across a case in the Scottish Courts. It concerns a case where the pursuers were Spring Salmon and Seafood Limited. The Opinion was that of Lord Clarke. We are sure some of his findings will be of great interest to our readers. We quote; 'The uncertainty as to what the parties' intentions were in relation to matters in this case arises, in my judgement, to a substantial extent, because of certain particular factors.....

Secondly the recording of the parties understanding of what was being agreed to was expressed in, different ways, at different times, by different parties, in terms of e-mails. Because e-mail correspondence freezes words in printed form it is, perhaps, tempting to invest it with a status beyond what is simply said face to face or in telephone conversation. E-mail is, however, a form of modern correspondence whose main characteristic and, indeed, perhaps, main advantage is immediacy. There may be a price to be paid for that immediacy and it is the price of uncertainty. Those who engage in e-mail correspondence

frequently ignore the basic rules of grammar and vocabulary. They do not necessarily take any time to choose the most just to give the precise meaning of what they intend, as a careful conveyancer might do.'

This is a devastating observation and very relevant to buyers. The formation of contracts, and subsequent correspondence does require precise language. Your comments would be very welcome on this matter.

**The skill of negotiation
& the skill of
interrogation.**

We have, for professional reasons been studying a manual on interrogation techniques and relating our conclusions to negotiation techniques. Is there a read across? We think so but offer some thoughts for your consideration.

The objective of any interrogation is to obtain the maximum amount of usable information possible in the least amount of time. The interrogator must remain in charge throughout the interrogation. To obtain the maximum amount of information from cooperative and friendly sources, the interrogator takes care to establish and to preserve a friendly and cooperative atmosphere. Some desirable personal

qualities in an interrogator are motivation, alertness, patience and tact, credibility, objectivity, self control, adaptability, perseverance and personal appearance and demeanour.

There is a lot more where that came from. Can we change interrogator to negotiator and nothing changes? It is an interesting thought.

Personal appearance.

Is it our imagination that business dress is getting scruffier? In recent months we have seen dirty shoes, stained shirts, askance ties, jeans with holes in the knees and soup stained suits. UGH!

Contact:

If you or a colleague / contact would like to receive the newsletter by email please contact, s.ascroft@brianfarrington.com

The newsletter will also be posted on our website on the first working Monday of every month.

Feedback, comments and contributions to the newsletter are very welcome. Please contact us.