





# BUSINESS PANEL



## OUR EXPERTS SHARE THE KNOWLEDGE...

<p><b>NGIT</b> JASON CONNOLLY</p> 	<p><b>CAREY OLSEN</b> RACHEL JONES</p> 	<p><b>RAVENS CROFT</b> DALE ACTON</p> 	<p><b>SOVEREIGN TRUST (CHANNEL ISLANDS) LTD</b> SEAN GILLEASE</p> 
---	--	---	---

■ To be a future panellist, contact [wgreen@guernseypress.com](mailto:wgreen@guernseypress.com)

# Change of use depends on specifics

**Do I need planning permission to change the use of my business premises?**  
Carey Olsen senior associate Rachel Jones replies:

NOT always. It all depends on the specific business uses – what you want to change the use from and to.

Generally speaking, premises can only be used for purposes within the 'use class' they belong to.

The Land Planning and Development (Use Classes) Ordinance 2017 sets out the numbered use classes under various headings such as visitor economy, retail, administrative financial and professional services, storage/distribution and industrial. There are a number of use classes under each heading. For example, under 'Industrial' there are four use classes (Light Industry, General Industry, Special Industry and Waste).

The ordinance allows you to change the use of premises if both the current and the proposed use fall within the same use class. This provides flexibility for a change to a similar use without the need for planning permission.

In most cases, if the proposed use falls outside of the same use class, planning permission will be required. However, in such a case there is still a possibility that planning permission will not be required if the change of use falls within one of the exemptions in the Land Planning and Development (Exemptions) Ordinance 2007. This Ordinance allows changes between certain use classes. For example, you are permitted to change from general industry (use class 25) to light industry (use class 24); you can change between light industry (use class 24) and general storage or distribution (use class 22) and from general industry (use class 25) to general storage or distribution (use class 22) (subject to some limitations on floor area).

It is also worth noting that if the proposed change of use is only for part of the premises, planning permission may not be required if the proposed use is ancillary or incidental to the main use of the premises. If you are unsure whether planning permission is required for a change of use, you should always seek professional advice.



Business premises can, in general, be used only for purposes within the 'use class' they belong to, says Rachel Jones of Carey Olsen. (Picture by Adrian Miller, 21044400)

## What is meant by 'Risk-On, Risk-Off?'

**I keep hearing the term 'Risk-On, Risk-Off' when discussing recent market volatility; what exactly does it mean?**  
Dale Acton, head of trading and market making, Ravenscroft, replies:

'RISK-ON, RISK-OFF' is a generalisation often used to describe investor market sentiment and their approach to trading.

When sentiment is classed as being 'Risk-On', investors are widely perceived to be more optimistic in their overall outlook and are therefore more willing to take a greater risk with their investments in a hunt for better returns. In this scenario you tend to see investors concentrating on equities, commodities and emerging markets. Typical safe havens such as government bonds and US dollar-denominated investments are often shunned. Conversely and as you would expect, 'Risk-Off' sentiment is the opposite, where pessimism is plentiful and investors are focusing on perceived lower risk investments such as governments bonds, precious metals and the US dollar. The 'RoRo' mind-set is a contributing factor to increased volatility in the markets and this is exactly what we have seen at times since the start of the year. Since the New Year, the FTSE100 has traded between 6,888 and 7,778 (incidentally these levels are also the 52-week low and high) as investors continue to attempt to make sense of a consistently uncertain world.

The most recent spate of increased market volatility – just this week – has been centred on the Trump administration's rhetoric on international trade tariffs and the potential for subsequent global trade wars. Whilst the world isn't obviously going to descend into any trade war overnight, recent market movements would indicate that investors are taking this potential long-term risk seriously. Their subsequent 'Risk-Off' sentiment is evidenced by the falling equity markets across the globe and the increase in the price of gold, for example. Sentiment can of course change in a heartbeat.

## Retirement annuity trusts explained

**I'm 40 years old and saving for a new house. I have a Retirement Annuity Trust and I've been told by a friend that I can take a loan from it, but is this true?**  
Sean Gillease, business development manager, Sovereign Trust (Channel Islands) Ltd, replies:

IT IS possible, under Guernsey income tax law (the 'Law') for the trustees of a retirement annuity trust to make a loan to a member, which would be paid out from the funds that the member has contributed into their own RAT.

Therefore, assuming that no restriction to the payment of a loan has been written into your trust deed, it should be possible for you to request a loan from your RAT. Your trustee would be able to confirm this.

A loan agreement between you and the trustee of your RAT will be required, which will clearly state the terms of your loan.

The Law does impose certain conditions: the loan cannot exceed 30% of the value of your RAT; a

commercial rate of interest must be applied (payable annually) and repayment must be made in full before commencement of benefit. Given that any loan taken must be fully repaid before you can take any benefit from your RAT, that means that when you get to age 50, which is the minimum retirement age under Guernsey Law, if you haven't repaid your loan in full you would be unable to take your pension commencement lump sum entitlement and/or annual income payments until the loan had been repaid.

In this scenario, you could offset the outstanding balance of the loan against what you would be entitled to as a PCLS and your PCLS entitlement would be lowered accordingly, but your loan would then be considered to have been repaid in full.

Long-term saving is always a challenge, but hopefully this flexibility from a Guernsey RAT means that some people are able to start saving into a pension from a younger age, which means they should be able to save a more meaningful amount.

## How to prepare your business for GDPR

**What can I do right now to prepare for the impending GDPR deadline?**  
Jason Connolly, director at NGIT, replies:

UNLESS you have managed to avoid every other article and email in your inbox for the last six months you already know that Guernsey, the UK, the EU and many other jurisdictions are in the process of changing their law on data protection.

In short, the new law is considered a necessary update to improve data protection and keep pace with technology changes and the modern world.

The rush to the finish line is in its final furlongs and most of you will know what needs to be done to keep yourselves and your businesses out of trouble.

If not, here are some simple tips to get back on track:

■ Make sure you are familiar with the six core principles.

GDPR is a principle-based law, so the best place to start is to become intimately familiar with the

core principles.

■ Be aware and raise awareness. Make sure that you and your team are clear on what is changing, including the new policies you create. Staff who are aware of what is required are less likely to fall foul of the new law.

■ Establish your lawfulness of processing. This is probably easier than you think. Most companies in Guernsey will be operating under contract. If in doubt read Article 6 and choose wisely.

■ Get your T&Cs in order. If you haven't already reviewed your current contracts and agreements, with both clients and suppliers, then you need to get in touch with your legal support as soon as possible.

■ Get your processes in order. You need to be able to effectively handle requests for the data you hold on individuals, report breaches and communicate with the Data Protection Office.

■ Map your data and document your processes and policies.

Finally, don't panic. It is easier than you think.