ThoughtLeaders4 HNW Divorce • December 2022

HNW Divorce MAGAZINE

ISSUE 11

2022, YEAR IN REVIEW

INTRODUCTION

"Celebrate endings — for they precede new beginnings."

Jonathan Lockwood Huie

We are delighted to present the final issue of HNW Divorce Magazine for 2022, a 'Year in Review', Issue 11.

Our latest issue discusses the range of topical issues that have faced practitioners this year, including the changes to CGT, no fault divorce, and transparency in the family court.

Thank you to our members, contributors and community partners for their continued support in 2022. Next year brings new events, new content, and new opportunities for the HNW Divorce community, and we look forward to seeing you all in 2023.

The ThoughtLeaders4 HNW Divorce Team

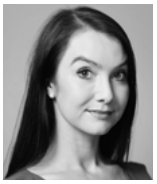
Paul Barford
Founder / Director
020 7101 4155
email Paul

Chris Leese
Founder / Director
020 7101 4151
email Chris

Danushka De Alwis
Founder / Director
020 7101 4191
email Danushka

Maddi Briggs
Strategic Partnership Manager
email Maddi

Yoshi Montgomery
Strategic Partnership Executive
email Yoshi



Dr Jennifer White
Head of Production
07733 854 996
email Jennifer

CONTENTS

ABOUT HNW Divorce

Through our members' focused community, both physical and digital, we assist in personal and firm wide growth.

Working in close partnership with the industry rather than as a seller to it, we focus on delivering technical knowledge and practical insights. We are proud of our deep industry knowledge and the quality of work demonstrated in all our events and services.

Become a member of HNW Divorce and...

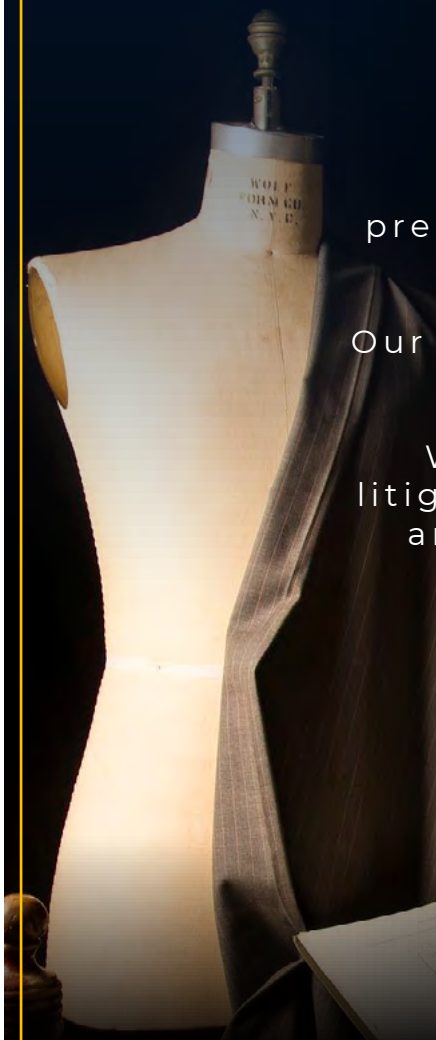
- Join a community of experts, referrers and peers
- Attend events in all formats
- Immediately benefit from our Virtual Forward of events
- Interact using our digital Knowledge Hub
- Learn and share expertise through the Community Magazine
- Grow your network and business
- Build relationships through a facilitated Membership directory

CONTRIBUTORS

Alex Cooke, **Schneider Financial Solutions**
Lauren Evans, **Kingsley Napley**
Claire Blakemore, **Withers**
Sarah Musgrave, **Katz Partners**
Daniel Sladen, **Quantuma**
Kayleigh Everson, **Quantuma**
Louise Desrosiers, **Travers Thorp Alberga**
Anthony Travers OBE, **Travers Thorp Alberga**
Amrit Singh, **Austin Kemp Solicitors**
Emma Cowley, **RBC Brewin Dolphin**
Laura Jennings, **A City Law Firm**
Antonia Felix, **Mishcon de Reya**
Katy Walsh, **Mishcon de Reya**
Joanna Kay, **Rayden Solicitors**
Claire Gordon, **Farrer & Co**
Daisy Tarnowska, **Farrer & Co**
Gilly Kennedy-Smith, **Mourant**
Jeremy Wessels, **Mourant**
Trina Little, **Westgate Chambers**
Heather Jarrod-Taylor, **Freeths**
James Carroll, **Russell-Cooke**
Lucy Gledhill-Flynn, **Russell-Cooke**
Kate Bradbury, **Brodies Solicitors**
Alex Carruthers, **Hughes Fowler Carruthers**
Stacey De Souza, **Hughes Fowler Carruthers**

SCHNEIDER
FINANCIAL SOLUTIONS

Scalable, Sustainable, and Secure Lending Solutions



Established in 2013
Schneider Financial Solutions is the preeminent lending partner for private client and family law matters.

Our loans are tailor-made and underwritten by solicitors on a case-by-case basis.

We understand that the complexities of litigation require intelligent finance solutions and we will support your client from case inception to completion.

020 3411 1033

WWW.SCHNEIDERFS.COM

60-SECONDS WITH:

ALEX COOKE CEO SCHNEIDER FINANCIAL SOLUTIONS

Q What do you like most about your job?

A The CEO role is just so varied: leading, devising strategy, negotiating with stakeholders, and chairing credit committees. Life is never dull. But I do also like to get out of the office and go meet our referring solicitors, understanding their needs and also explaining some of the not immediately obvious ways our funding can help clients and unlock tricky situations.

Q What would you be doing if you weren't in this profession?

A I guess I'd be in the blockchain / crypto space. It's a fast-paced, ever evolving area with so much potential for real world use cases.

Q What's the strangest, most exciting thing you have done in your career?

A Probably setting up a litigation lending business! It was only supposed to be a side-project.

Q What is one of your greatest work-related achievements?

A Negotiating our current senior and junior credit facilities whilst in lockdown. This is not a simple task at the best of times but in the uncertainty of the COVID pandemic, banks and other lenders were withdrawing credit facilities all over the place, whilst we were trying to enter in a new funding arrangement on a non-standard product. And all of this done remotely. My little boy Jack who was then only four became an active member of the negotiation team!

Q What has been the most interesting case you have seen in 2022?

A Funding a terminally ill woman with very short life expectancy so that she could fulfil her wish to die peacefully no longer married to an abusive spouse. There were so many considerations to take on board through the Credit process, however with funding in place her legal team and the Family Court were able to swiftly bring matters to a conclusion.

Q What do you see as the most significant trend in your practice in a year's time?

A Funding financially dominant parties. In my view litigation lending should be considered as an option for both parties, not just the financially weaker party. It's up to the borrower to determine whether they should consider funding after all. And refinancing other / exiting lenders loans. We're doing a lot of that.

Q What personality trait do you most attribute to your success?

A Always looking to improve.

Q Who has been your biggest role model in the industry?

A Frankly in the litigation lending industry, outside of my own team I don't see anyone as inspirational. Looking at the wider litigation funding space as a whole I think the senior leadership teams of the likes of Burford or Omni Bridgeway have done a great deal to promote funding and be creative in defining use-cases throughout the commercial litigation space. From my side, I hope I am doing my part to create this type of adoption of litigation finance in the family law space, and not just for the simple cases.

Q What is something you think everyone should do at least once in their lives?

A 1,000 burpees.

Q You've been granted a one-way ticket to another country of your choice. Where are you going and why?

A Brazil. And not just for the extradition treaties. I like to train Brazilian Jiu Jitsu, and it's a really exciting country with huge exuberance and beauty, and lots of opportunity.

Q What is a book you think everyone should read and why?

A Extreme Ownership by Jocko Willink and Leif Babin. If you are prepared to subordinate your ego and take on board the simple principles explained throughout the book, it may be life changing, and at the very least you'll be adding the term "subordinate your ego" to your vocabulary.

Q Reflecting on 2022, what three words would you use to sum up the year?

A Another great year!

KINGSLEY NAPLEY

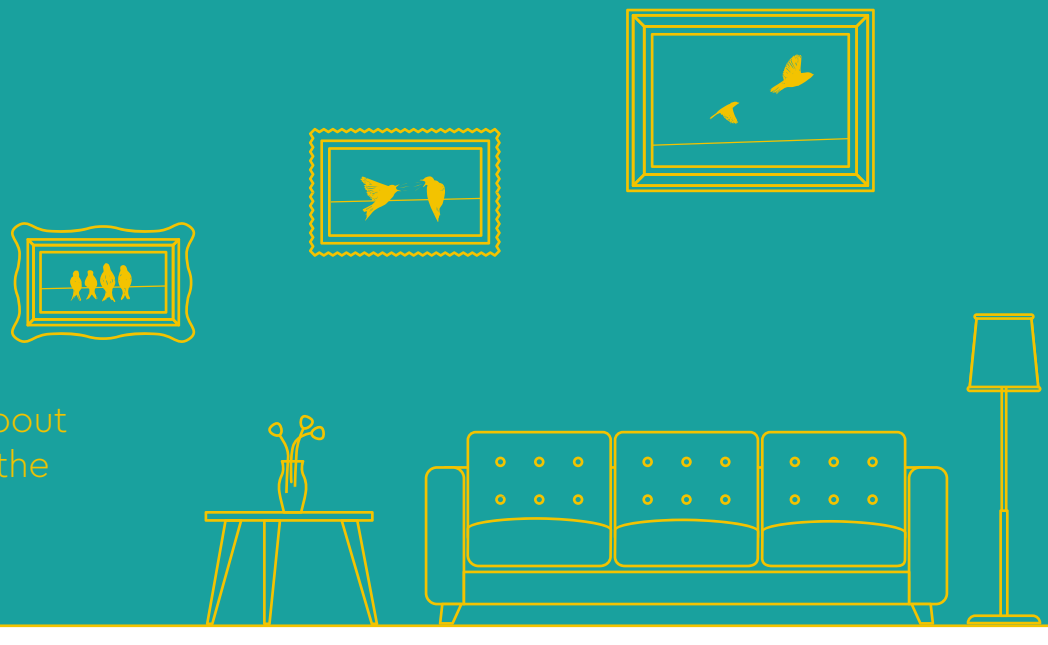
WHEN IT MATTERS MOST

"The dream team"

The Legal 500 UK 2021

We are recognised nationally and internationally as a dynamic and strategic team of family lawyers, known for our expertise in both complex finance and high profile children cases.

We assist clients at all stages of their lives, whether at the beginning of a relationship and planning a future (for example before a wedding or when relocating to the UK) or at the end. Many of our clients or their spouses have international connections, are high net worth individuals and city professionals, or individuals with a public profile.



For further information about our practice, please use the contact details below.

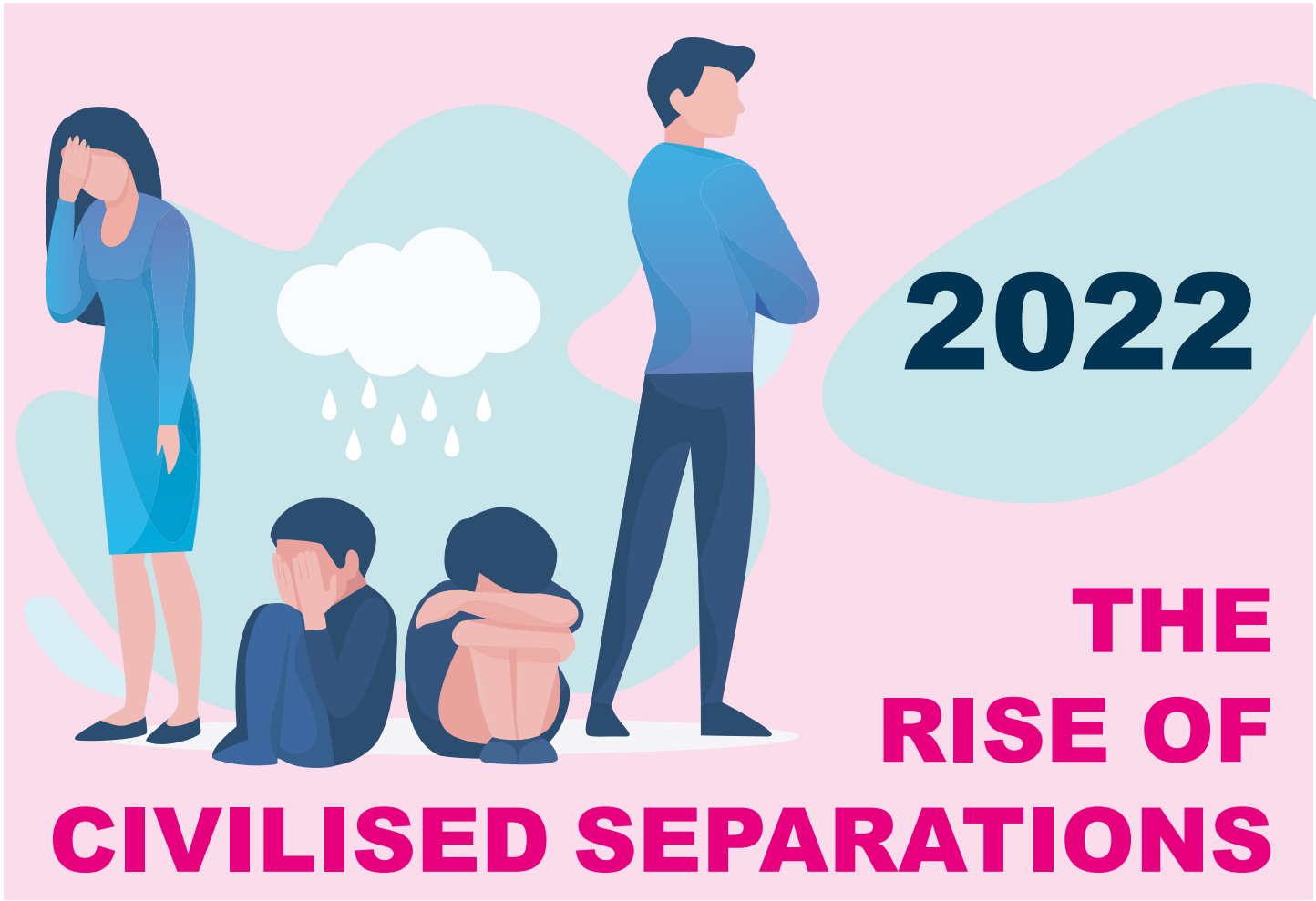
kn.legal/tl4 | +44 (0)20 7814 1200

THE LAWYER Awards 2022 LAW FIRM OF THE YEAR: (THE INDEPENDENTS)

TOP RANKED Chambers High Net Worth 2022 Kingsley Napley LLP

The LEGAL 500 UNITED KINGDOM LEADING FIRM 2022

SPEAR'S500



2022 THE RISE OF CIVILISED SEPARATIONS

Authored by: Lauren Evans - Kingsley Napley

"There can be no keener revelation of a society's soul than the way in which it treats its children."

Nelson Mandela's words were brought to life in March 2022 as the Family Solutions Group (FSG) - set up in 2020 to look at how family separation impacts on children - urged the government to help thousands of children whose mental health is put at risk when families separate, because their parents are left to "square up" rather than "sit down" and seek an amicable solution.

At the event the President of the Family Division, Sir Andrew Macfarlane, endorsed the report as a "blueprint for radical change".

The end of the blame game

In April 2022, the introduction of "no fault" divorce heralded the potential for a new era of civilised separations, in which parents are no longer pitted against each other from the beginning. The process is simpler, if not quicker, with more accessible language.

However, we need to build on that long-overdue reform and address the way divorce and separation impacts the entire family, not just the parents.

The current system leaves too many families with nowhere to turn for help other than the family court, which is adversarial in nature and already in crisis, overwhelmed by backlogs and families left to represent themselves following cuts to legal aid. While the court is vital for cases involving domestic abuse and child safety issues, it is a blunt (and often destructive) instrument for most parents, who instead need a tailored family solutions system, as proposed by the Family Solutions Group.

Let's get creative

Family law professionals have already begun adapting and innovating, finding new ways to support clients through the separation process. Private FDR hearings are now commonplace and arbitration for both finance and children cases continues to grow in popularity, offering both privacy and the benefit of a binding outcome.

In May 2022, the TL4 Future of Family Practice DR Conference highlighted

the need for practitioners to breakdown silos and collaborate with other professionals, such as financial advisers and therapists.

We have seen growing demand from clients for a bespoke wrap-around "separation support service". New ways of working, including "one couple / one lawyer" models, such as Resolution Together, are attractive to the majority of couples who want to move forward in a fair, respectful and cost-efficient way.

MIAMs makeover

The government mediation voucher scheme, extended earlier this year to March 2023, has proved successful so far with around two-thirds of cases reaching full or partial agreements away from court.

However, despite the best of intentions, Mediation Information and Assessment Meetings (MIAMs) have clearly not been effective in steering families away from court and instead are regarded by many as an inconvenient obstacle. New standards introduced in October 2022 mean that MIAMs should now last a full hour, provide clients with consistent messages about alternatives to court and offer the time and space for them to consider the best way forward for their family.

Mind your language

Following on from the FSG "What about me?" report, the President of the Family Division commissioned a further report into the language for separating families. This report, "Language Matters[1]" has distilled feedback from a range of consultees and existing literature into five core principles for language change, to shift mindsets away from adversity and battles, towards safety, wellbeing and child welfare.

The five "P"s are:

- **Plain English** – avoid legal jargon and use words which can be easily understood.
- **Personal** – use family names rather than legal labels.
- **Proportionate** – use language which is proportionate to the family issues being considered.
- **Problem-solving** – use constructive language rather than battle language. The move from combative to cooperative language reflects a move from the language of parental rights to the language of parental responsibility, so issues can be approached in a child-focused way.
- **Positive futures** – the emphasis is not on past recriminations but on building positive futures in which children can thrive.

There is a call for language change throughout the Family Court: in court forms, case headings, the Family Procedure Rules, and in the language used by (and about) legal professionals at all levels (including in legal directories).

The Family Court needs to lead the charge, so that these principles begin to permeate into the rest of society, for example to schools, health professionals, charities and the media.

The "Family Justice System" itself is a misleading illusion. First, there is no promise of "justice" following separation.

Instead the Family Court only provides a "just" process for resolving issues. Second, there is no systemic approach to family separation, only legal services which operate in the shadow of the Family Court. No one designing a family separation system from scratch would start with a court room. No one designing that system would leave responsibility for the children of separating families falling between the cracks of thirteen different government departments, none of whom will now step up.

The obvious elephant in the room is funding. How can any system-wide reform be paid for? Well, research shows that:

- 280,000 children each year are caught in the middle with evidence linking parental conflict to life-changing harm, including to child brain development; and
- The current lack of government policy around family separation is costing the British tax payer an estimated **£51 billion each year** (up from £37 billion in just 10 years).

As more children grow up with parents in conflict, and more parents suffer from hostile separations, we have another public health crisis on the horizon. Research predicts poor outcomes for these children, which stretch into adulthood, including mental ill health, relationship difficulties, substance abuse and criminality.

The rise of civilised separations offers these children better prospects for school, employment and future relationships; and our wider society will benefit from costs savings, including across the education system, the health and social care system and the justice system – across all those government departments currently not taking responsibility for this issue.

A language of wellbeing and cooperation, instead of law and justice, could open up wider government responsibility for separating families. It could encourage a positive shift from the limited concept of "Family Justice" towards an integrated and coordinated response which has safety and child welfare at its core.

Momentum is building.

Siobhan Baillie MP has secured a debate in Westminster Hall on terminology in Family Law on 16 November 2022, the Family Procedure Rules Committee is considering what changes can and should be made to the FPR in response to the language report, and the family law community is being encouraged to join the conversation.

2023 brings with it the hope that changed language will change mindsets and lay the foundations for improved systems of support for separating families.

1 https://www.familysolutionsgroup.co.uk/language-matters/

YEAR IN REVIEW AND THINGS TO LOOK OUT FOR IN 2023

TRANSPARENCY IN THE FAMILY COURT – WHAT'S HAPPENED AND WHERE ARE WE NOW?

Authored by: Claire Blakemore - Withers

"Courts sit with the authority of the Sovereign, but on behalf of the people, and the people must be allowed, so far as possible, to see their courts at work."

…said Mr Justice Holman 7 years ago in a case called Fields v Fields in 2015, making the point that it is precisely because a judge is a public court and not a private arbitrator, she or he must be exposed to public scrutiny and gaze.

That there has been a sharp increase in the openness and transparency of the family courts in recent years is aptly illustrated by the media coverage of a children parental alienation case (at the time of writing) being heard by the President in the Family Division in which he is considering whether a jointly instructed expert relied upon the court was properly qualified – a working example of the maxim that justice doesn't just need to be done but needs to be seen to be done.

So what is and has been going on behind the scenes to make the judgments and the processes of the family court more transparent and what can we expect in terms of transparency and the courts in 2023?

The tail end of 2021 kicked off with the President's ground-breaking publication, Transparency in the Family Court Report, published in October 2021.

Sir Andrew McFarlane concluded that there needed to be a major shift in culture and process to increase the transparency in a number of respects.

In addition to a range of ancillary proposals, his main conclusion was that the time has come for accredited media representatives to be able, not only to attend hearings, but to report publicly. Any reporting would need, however, be

subject to very clear rules to maintain the anonymity of children and families, and to keep confidential intimate details of their private lives. Sir Andrew has since led the charge in implementing these changes.

At the same time, Justice Mostyn and Judge Hess launched a consultation on a proposal to introduce a Standard Reporting Permission Order and other reforms so as to enhance the transparency of, and public confidence in, financial remedy proceedings in the Financial Remedies Court. Specifically, journalists would be allowed to report on what goes on in family courts as of right, subject to anonymisation, and family members would be allowed to speak to reporters. Judges would be instructed to publish 10% of their judgments in anonymised form.

It was suggested at a recent Open Meeting of the Family Procedure Rule Committee (itself a move towards greater transparency and a reminder, and perhaps a revelation of just how hard many judges and practitioners, court staff and other professionals who serve on this Committee work to improve the family court for the public and all those involved with family justice) that the proposal for the introduction of standard permission orders is being reconsidered.

In the course of the year, we have benefitted from the various judgments, including more recently, that of Mr Justice Mostyn, in Gallagher v Gallagher [2022] EWFC 52, in which he referred to his earlier decisions of decisions of BT v CU [2021] EWFC 87 , A v M [2021] EWFC 89 , Aylward-Davies v Chesterman [2022] EWFC 4 , and Xanthopoulos v Rakshina [2022] EWFC 30 , where he have sought to elucidate the principles governing the openness of those financial remedy proceedings, not falling within s. 12 of the Administration of Justice Act 1960, which are heard in private under FPR 27.10 but which the press and legal bloggers may attend under FPR 27.11.

Mr Justice Mostyn helpfully summarised the current state of play:

i) From the very start of the era of judicial divorce, proceedings had to be conducted either in open court or in chambers “as if sitting in open court”. There was not the slightest hint that matrimonial proceedings would be secret save in nullity cases alleging incapacity or where the ends of justice might be defeated. The decision of the House of Lords in Scott v Scott [1913] AC 417 [1913] AC 417 established that the Divorce Court was governed by the same principles in respect of publicity as other courts.

ii) By FPR 27.10 and 27.11, financial remedy proceedings are heard “in private”. The correct interpretation of these rules, in the light of Scott v Scott , is that they do no more than to provide for partial privacy at the hearing. They prevent most members of the general public from physically watching the case. Those rules do not impose secrecy as to the facts of the case.

iii) There is nothing in the various iterations of the Divorce Rules, Matrimonial Causes Rules, Family Procedure Rules or RSC Order 32 r. 11 supporting a view that proceedings heard in the Judge’s or Registrar’s chambers were secret. A chambers’ judgment is not secret and is publishable. Furthermore, the change of language in the FPR 2010 from “in chambers” to “in private” did not presage that ancillary relief proceedings should become more secret.

iv) By FPR 27.11 , journalists and bloggers can attend a financial remedy hearing. If the case does not relate wholly or mainly to child maintenance, and in the absence of a valid reporting restriction or anonymity order, they can report anything they see or hear at the hearing. That some of the material under discussion would have been disclosed compulsorily does not constrain their right to report the hearing. The power under FPR 27.11(3)(b) to exclude a journalist or blogger to prevent justice being impeded or prejudiced confirms the unrestricted reportability of the hearing.

v) In the absence of a valid reporting restriction order the parties can talk to whomsoever they like about a financial remedy hearing, including giving an interview to the press. But they are bound by the implied undertaking not to make ulterior use of documents compulsorily disclosed by their opponents. This means that they cannot show such documents to a journalist unless that journalist was covering the case.

vi) The standard rubric on financial remedy judgments providing for anonymity cannot prevent full reporting of the proceedings or the judgment. This is because it is not a reporting restriction injunction, not merely because none of the procedures for making such an order have been complied with, but because it manifestly is not an injunction. It is not an anonymity order under CPR 39.2(4) , not merely because no process for making such an order was followed, but more fundamentally because it is not such an order. Such an anonymity order can only be made exceptionally. The general rule is that the names of the parties to an action are included in orders and judgments of the court. There is no general exception for cases where private matters are in issue. An order for anonymity (or any other order restraining the publication of the normally reportable details of a case) is a derogation from the principle of open justice and an interference with the Article 10 rights of the public at large and, indeed of the parties.

vii) The court can only prevent reporting of a financial remedy hearing or judgment, or order that the identity of the parties be obscured by anonymisation, by making a specific order to that effect following an intensely focussed fact-specific Re S exercise of balancing the Art 6 , 8 and 10 rights.

viii) The Judicial Proceedings (Regulation of Reports) Act 1926 does not apply to financial remedy proceedings.

And since then, things have moved on apace, with the President setting the Family Court Transparency Implementation Group (TIG) which published its First Progress Report in October 2023.

From that report, we know that there are five sub-groups dealing with the transparency hot topics and also what progress has been made:

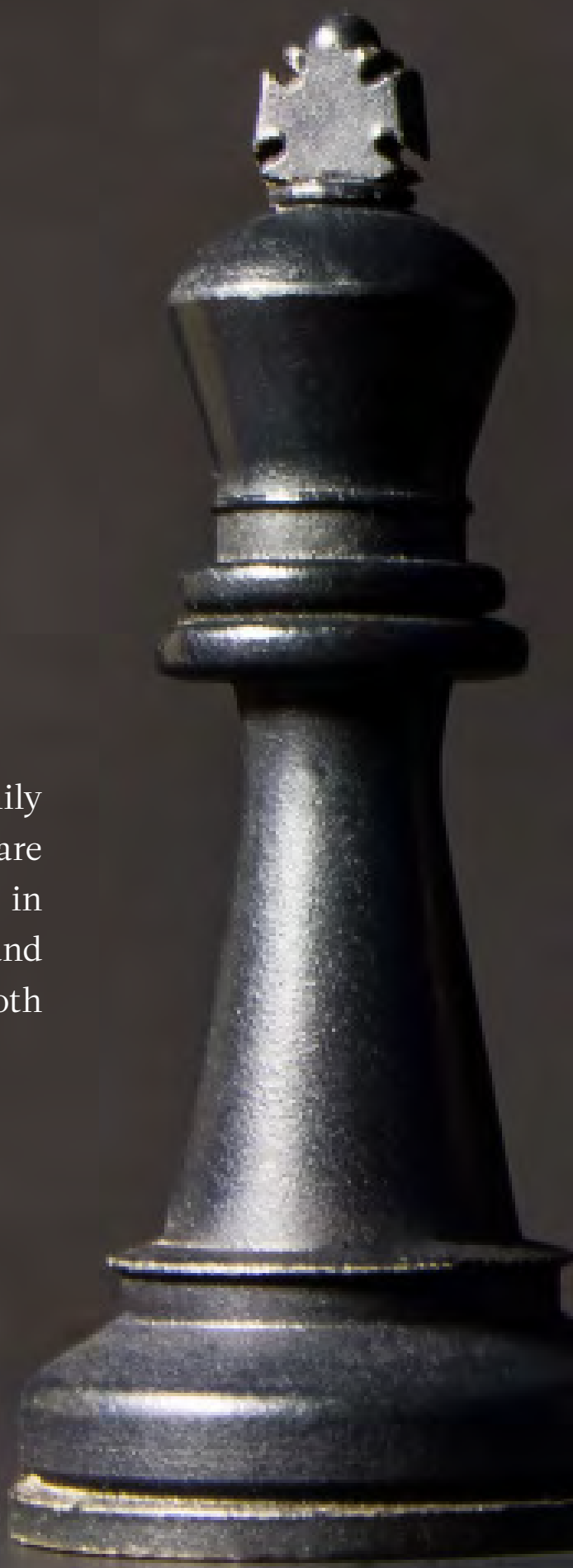
- **Press attendance and reporting (pilot) sub-group:** The legal framework, training requirements and process of evaluation have all been agreed. The proposed scheme will permit reporters and legal bloggers not only to attend but to report on proceedings otherwise conducted in private in the Family Court, subject to maintaining confidentiality of the parties and children. The plan is to pilot the scheme in three courts in England and Wales starting in November. The start date is subject to confirmation of funding and the final identification of the three courts. It is anticipated that the three courts will be publicly identified during early October.
- **Data collection sub-group:** The data collection sub-group has started the process of identifying what data is currently collected, where it is stored and how it can be accessed and by whom. Consideration is being given to building from HMCTS CCD, the Domestic Abuse Commissioners projects, and Cafcass data. This data mapping process will conclude in the next quarter: started to develop an annual report structure – this year the report is likely to focus on the strategy for data, and future reports will incorporate more data analysis and data driven insights with a topical focus.
- **Media engagement sub-group:** The aim of the sub-group is to implement the goal of establishing a relationship of trust and confidence between the media and the Family Court and to ensure that any reporting of Family Court proceedings is reliable and well informed, whilst maintaining the anonymity of children and family members who are before the court. Such reporting will increase transparency within the family justice system, which is likely to enhance public confidence significantly.
- **Anonymisation and publication of judgments sub-group:** The main focus of the sub-group so far has been to produce a first draft of new judgment publication and anonymisation guidance. That draft is now with the President for review and will then be considered by the main TIG. The guidance has been agreed by the sub-group as a whole and there has been input from all members including, importantly, representatives from the Family Justice Young People's Board. The draft guidance includes recommendations in respect of the volume of judgments to be published, and how judgments should be selected for publication. Work has also been undertaken on a proposal for an Anonymisation Unit to help judges with the work of anonymising judgments for publication
- **Transparency in financial remedy cases sub-group** The Information collection stage has now been almost completed. The aim is to write up the proposals and research by the end of November.

The fact that these five sub-groups have very different areas of focus and direction, with some looking at how media reporting is managed and another looking at anonymisation, illustrates the competing interests and forces at play, making any reforms towards greater transparency somewhat controversial.

We must have transparency in our court system, but a majority of clients don't want their private lives being splashed across the media, and with good reason. We can trust in the sterling work of the Family Group Procedure Committee Transparency Implementation Group to take the reforms forward in 2023 in a considered and careful way.

1KBW

"They are as strong on money as they are on children and they've got strength and depth in both silks and juniors." - Chambers & Partners, 2020

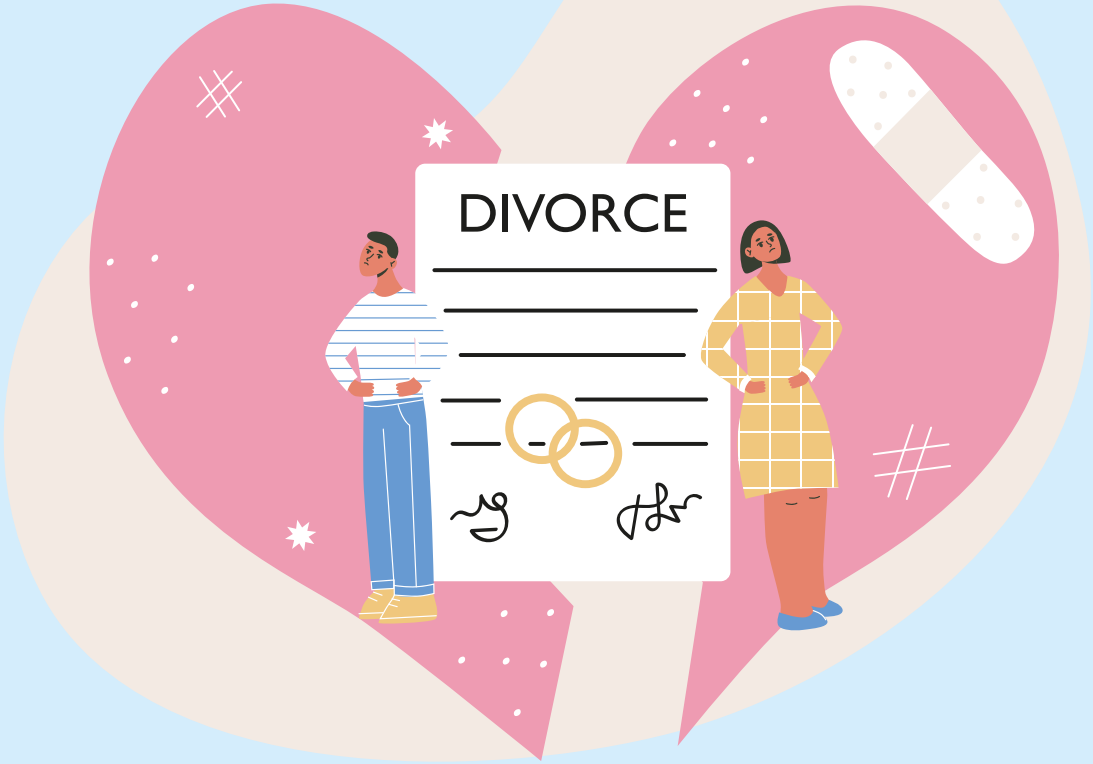


1KBW has a pre-eminent reputation in family law, both nationally and internationally. We are consistently ranked by the legal directories in the top tiers of leading sets for family law, and are unique in our strength in depth for both finance and children cases.

One Choice
One King's Bench Walk

1kbw.co.uk — Leading in family law - clerks@1kbw.co.uk

THE RADMACHER EFFECT



HOW THE TREATMENT OF MARITAL AGREEMENTS IN THE FAMILY COURTS HAS EVOLVED OVER THE LAST YEAR

Authored by: Sarah Musgrave - Katz Partners

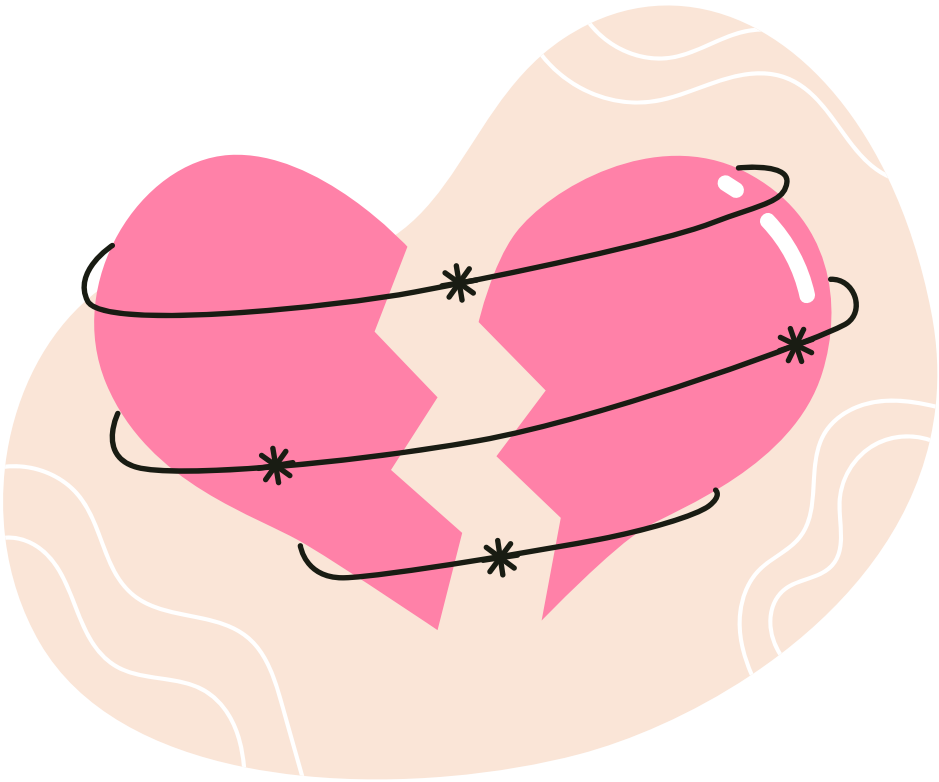
Following the landmark decision of Radmacher v Granatino [2010] UKSC 42 marital agreements have become far more commonplace. This year has seen a raft of reported judgments concerning marital agreements entered into after the dawn of Radmacher - a trend which we can expect to continue into 2023, and beyond. The key points of guidance we can take from the 2022 judgments are:

The needs of the weaker financial party must always be met:

- In IR v OR [2022] EWFC 20, Mr Justice Moor ignored entirely a (draft) pre-nuptial agreement that provided for a complete separation of property including the husband's inherited family business (which had been sold by the time of the final hearing generating circa. $330 million). It failed the Radmacher test; the wife would have ultimately faced a 'predicament of real need'.
- In Traharne v Limb [2022] EWFC 27, the parties entered into a post-nuptial agreement which provided for the husband to pay off the mortgages on two properties which the wife was to retain but made no provision for her income needs. Sir Jonathan Cohen found it would be unfair to hold the wife to the agreement. It did not meet her long term needs where she would be left, post-retirement, with a rental income of £7k p/a gross, a pension of £6k p/a net and a state pension.
- In SC v TC [2022] EWFC 67, HHJ Hess found that a post-nuptial agreement which provided for the wife to receive 80% of the marital assets should be disregarded. The facts of the case were very unusual (more on this below) but had the agreement been upheld, the husband would have been left in a 'predicament of real need' and as such, it failed.

The court will consider carefully allegations of undue pressure:

- In Traharne v Limb, the court was asked to determine whether the PNA was ineffective due to the husband's coercive and controlling behaviour. The marriage was turbulent with the parties separating and reconciling several times. The PNA was entered into after a period of reconciliation. The wife suffered from complex



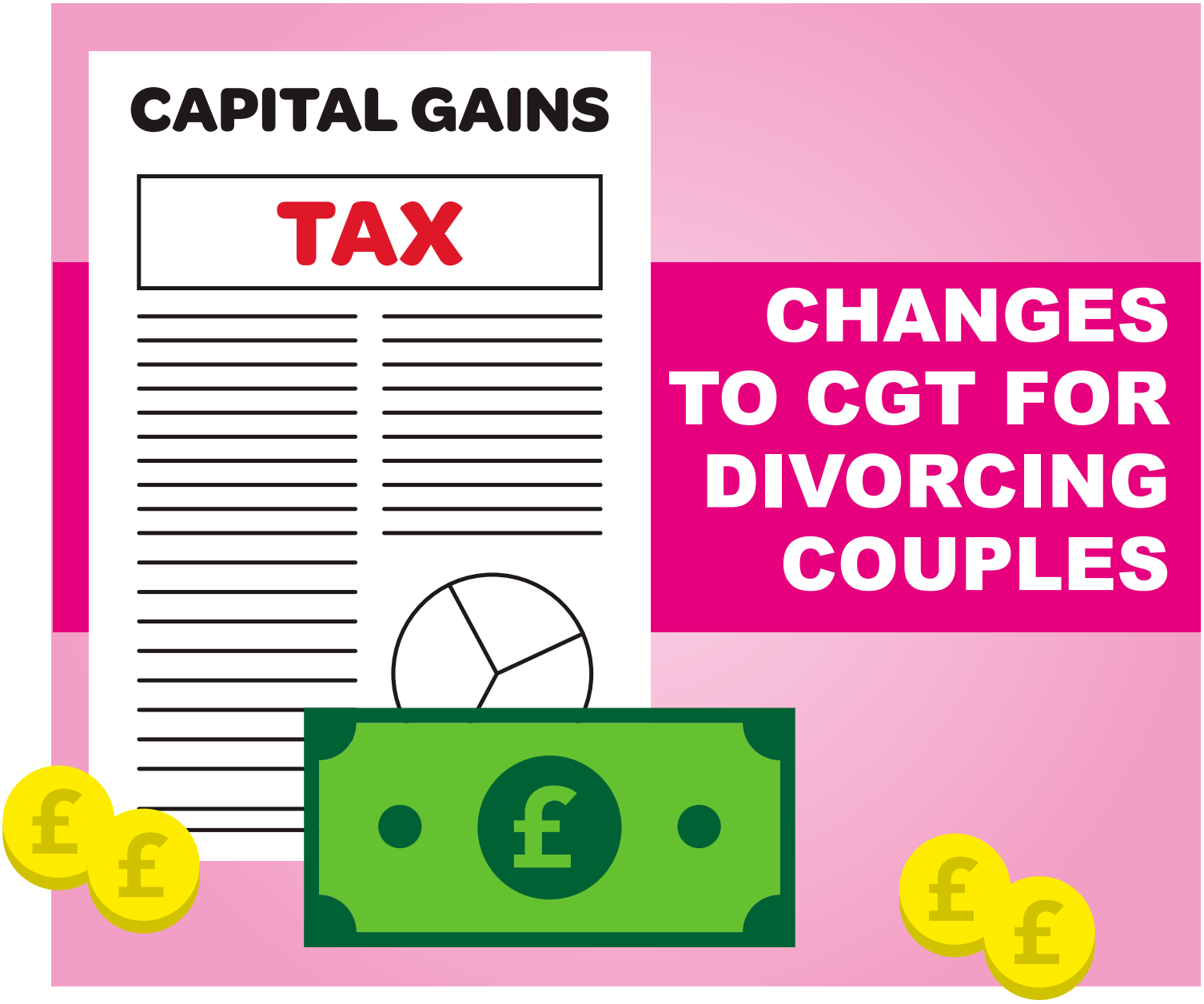
PTSD, a depressive order and had reactive depression as a result of two previous relationship breakdowns. She argued that she was induced to enter the PNA by her husband's coercive and controlling behaviour, which she alleged included verbal abuse, denigration and belittling, financial control, "gaslighting" and controlling her everyday life. The husband denied all allegations and, in any event, asserted there was no causal connection between the allegations and the state of mind of the wife at the time she entered into the PNA. Sir Jonathan Cohen found that coercive and controlling behaviour could be an example of undue pressure but on the evidence before him found there had been no such behaviour on the husband's part. He held that at the time the PNA was negotiated and signed, the wife was vulnerable by reason of her past experiences and that she had a psychological need for the relationship to continue. Her inability to make a rational and considered decision as to what was in her best interests was not caused by his conduct.

- In WC v HC [2022] EWFC 22, Mr Justice Peel acknowledged that in almost every marital agreement the parties would be under a degree of pressure but unless undue pressure could be demonstrated, which was not found in this instance, the court would ordinarily uphold the agreement.

The facts of SC v TC give rise to discussion as to what constitutes a 'vulnerable person' when considering the circumstances in which a PNA was entered into. The parties were married in 1994; a decade later, the husband began to experience the effects of Parkinson's Disease and was formally diagnosed in 2011. In 2013, after an incident of infidelity on the husband's part, the parties entered into a post nuptial agreement giving the wife 80% of the marital assets in the context of their marriage continuing. The husband was advised in the strongest possible terms not to enter into the agreement. He did so, contrary to that advice, stating 'given my Parkinson's it makes no sense for me to have any assets in the long term'. The PNA had been entered into following the exchange of financial disclosure; both parties had legal advice; and both had full understandings of the effect of the agreement, thereby placing it firmly in the category of agreements to which we are told that the court will attach significant weight. HHJ Hess found that not only was the PNA very much to the husband's disadvantage, at the time it was signed he was a vulnerable person and the wife had taken advantage of that vulnerability to gain a substantial financial advantage. The agreement was held to be unfair and the assets were divided equally.

The weight the court should give to unsigned agreements, and those agreements which spouses struggle to locate in final form has also been given consideration by the courts. In WC v HC, the parties had entered into a post-nuptial agreement in 2017 but the wife had not signed the agreement. Mr Justice Peel held that she was not bound by the PNA given the lack of signature, but to simply ignore it ran contrary to the statutory requirement to take account of all the circumstances of the case, particularly when the PNA was negotiated by the parties with the benefit of legal advice and financial disclosure. The court was entitled to attach such weight to the agreement as it deemed fit. In IR v OR, neither party was able to locate a signed and finalised copy of their PNA. Mr Justice Moor found the fact that the husband could not even lay his hands on the executed document demonstrated the extent to which the parties had evidently abandoned the spirit of the PNA.

PNAs will undoubtably feature in many more cases landing on the desks of family law practitioners, and we must all pay close attention to the developing guidance from the courts as this area of law continues to evolve.



CHANGES TO CGT FOR DIVORCING COUPLES

Authored by: Daniel Sladen and Kayleigh Everson - Quantuma

Following the Chancellor's announcement of some fairly major tax changes over the last few weeks, it appears that the draft legislation that was published earlier this year to amend the calculation of capital gains tax applied on transferring assets during separation and divorce has survived without further change, and looks likely to be implemented with effect from April next year.

The current position is that a married couple / civil partners benefit from transferring assets between them at no gain no loss, meaning that no tax is payable. The receiving partner takes on the base cost of the asset from the transferring partner, and the transferring partner has no taxable gain.

Until now, the benefit fell away after the tax year of separation (ending on 5 April). This meant that couples who separated on, for example, 1 July 2021 or 1 April 2022 would have had until 5 April 2022 to transfer assets at no gain no loss. Transfers made by the separating parties after the tax year of separation (in this example, 6 April 2022 or later) are deemed to take place at market value consideration and may result in CGT being payable regardless of whether any payment is made for the assets. This includes assets transferred under a court order.

Proposed changes

The new legislation proposes to extend the no gain no loss transfer window in two ways.

In the absence of a court order, the transfer window ends on the earlier of:

(a) three years following the tax year of separation (e.g. separation on 1 July 2021 results in a transfer window ending on 5 April 2025); or

(b) decree nisi.

However, where the assets are transferred following a court order under financial remedy proceedings, the transfer period for no gain no loss for assets transferred pursuant to the order is unlimited. This is clearly beneficial for complex and/or contentious cases.

There are also draft amendments to rules regarding the marital main residence, which appear to allow the exiting spouse to claim PPR on

the period where there is deferred consideration, through a Mesher order or similar scheme.

There do not appear to be provisions preventing the changes applying to those who have already separated.

The draft legislation simply states it will apply to disposals from 6 April 2023, with no restriction on when the separation occurred.

Therefore anyone currently seeking a court order, or those who have separated since 6 April 2020 who have not yet received their decree nisi may wish to hold off on transferring assets until there is any more indication as to whether this legislation will receive Royal Assent (although it is worth being aware that the controversy around recent tax proposals has led to rumours that the Finance Bill implementing the changes will not be brought before Parliament until March 2023).

Despite an unlimited transfer period, these changes are likely to result in an increase in the work required by tax advisors, rather than a decrease. Instead of simply calculating market value CGT on transfers, there may be a requirement to analyse historical spousal transfers made at no gain no loss as assets with significant potential gains might lead to unequal future tax bills depending on who ends up holding which assets.

A practical example

A husband and wife meet in 2016, marry in 2017 and separate in January 2020. They are seeking a court order to split their assets in the divorce.

The husband has a buy to let property which was his main residence prior to the marriage and which has increased in value since acquisition. He never transferred this property into joint names. The order requires him to transfer this property to the wife.

Current rules

There will be a gain calculated (market value less purchase price, costs and enhancements), reduced by PPR relief for the period which the property was his main residence. The husband will suffer some CGT on transfer and the wife will take on the property at the current market value.

New rules

The asset will transfer to the wife at the original base cost, and the husband will have no gain. However, based on the rules as currently drafted, the wife does not inherit the husband's PPR claim or occupation history and therefore the PPR relief will not be available for use against her capital gain on a future sale.

Planning implications

What does this mean for the value of the asset transferred? Under the new rules, this asset is not worth as much (in terms of net realisable cash value) in the hands of the wife as it is to the husband due to the different PPR relief treatment for each party. The court should be taking this difference into account, and there is an extra element to the calculation and tax analysis compared to that which would have been undertaken previously.

It is important to note that there is a consultation period during which HMT may look to simplify or restrict the new tax "benefits", and these changes are therefore not law until Royal Assent is received. However, divorcing parties need to be aware now that where the court order is made ahead of 6 April 2023, CGT will apply under the current legislation, not under no gain no loss. This means there is a potential for additional tax, and therefore the timing should be considered as part of the divorce process.


serle court
Universally high quality **from bottom to top**
...what we love is that they are so pragmatic and commercial, real team players
LUNA
chancery & commercial
@Serle_Court
Serle Court
+44 (0)20 7242 6105 clerks@serlecourt.co.uk www.serlecourt.co.uk

CAYMAN ISLANDS TRUSTS OR FOUNDATION COMPANIES AND HOW THEY CAN BE USED TO PROTECT GENERATIONAL WEALTH

Authored by: Louise Desrosiers and Anthony Travers OBE - Travers Thorp Alberga

"Marriage is the leading cause of divorce"

Michael Alberga

With over half of marriages ending in divorce, it is statistically likely that there will be a divorce in two generations of any given family. So how do clients contemplating generational succession planning accommodate this risk? The question becomes particularly pertinent given that we are at the beginning of 'the Great Wealth Transfer'. Baby Boomers, a generation that has accumulated a greater percentage of wealth than any other, are set to transfer to their children an estimated $68 trillion over coming decades; the biggest wealth transfer ever seen. No doubt this is a great opportunity, but if clients don't plan for it, not only may the state organise their affairs for them, but accumulated and generational family wealth may be subject to court ordered disposition on uncontemplated divorces. Where generational succession planning is concerned, not only intestacy and tax and divorce laws should all be considered.

Trusts and their role in protecting inter-generational wealth

The principle that non-matrimonial assets remain protected, including those held in trust structures, was confirmed in the case of Daga v Bangur [2018] EWFC 91.

Trust interests can become contentious on divorce and a trust can be attacked, in a number of ways including that it is a 'nuptial settlement', a 'sham' or, accepting that the trust exists, but that its assets are to be taken into account on the basis that the trust is a 'financial resource' to one of the parties.

As such, when establishing a trust, careful thought should not only be given to protect assets from death and taxes, but separate consideration must be given when establishing the trust to defenses from an attack by ex-spouses. When considering trusts, the Family Court may assess factors including the original purpose of the trust, the approach of the trustees and their overall administration of the trust. The conduct of the Trustees and their independence will be scrutinised by the Court.

Complications can further arise when the structure is multinational, as it often is. The 'home jurisdiction' will be defined as the jurisdiction in which the trust is based and the foreign court will be wherever the beneficiaries are based. Considering all of the above, you should not stop at choosing the right vehicle to protect assets, it is also imperative to give serious consideration to the jurisdiction in which you base the trust.

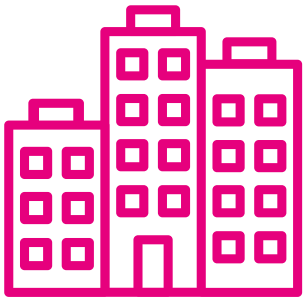
Why the Cayman Islands?

The Cayman Islands has proved to be a well-established and highly effective jurisdiction for trusts for non-residents of the Islands. It is currently a British Overseas Territory and therefore benefits from an English Common Law structure that respects rights of ownership under an English style court system having ultimate appeal to the Privy Council. The Cayman Islands is currently also the only jurisdiction offshore with no income, corporation, capital gains, payroll, value added, sales or inheritance taxes and no exchange controls.

As a result, it has been a leading jurisdiction for the establishment of trust structures which have been well defended by the Court system. In addition, by pioneering specific legislation that facilitated succession planning for such clients from civil law countries, clients can create trust and corporate structures that both accumulate wealth and provide for its distribution through successive generations with asset protection features and free of the mandatory inheritance regimes and community of property laws that are typical in civil law jurisdictions.

Furthermore, if a foreign court is not familiar with offshore trusts or foundation companies, they may deal with their lack of familiarity in a number of ways, including refusing to acknowledge the law of the home court, asking for evidence via parties or expert evidence of local law, or by making investigation themselves.

An alternative method may be to evoke judicial cooperation; by using home courts in the Cayman Islands as an ancillary court, something to which courts have been open to, which may be a major advantage in the resolution of potential disputes.



New and alternative structures to trusts available in the Cayman Islands – foundation companies

When acting for non-residents of the Islands seeking to benefit from these specific Cayman provisions it is important to undertake careful consideration and planning as to the manner in which the Cayman Trust should be structured to minimise income, corporation and inheritance tax risks, and to ensure that the structure created will withstand not only attack from creditors, expropriatory Governments and ex-spouses during the lifetime of the client, but will confer similar and continued benefits for successive generations.

Historically, the preferred offshore arrangement for wealth structuring required both an offshore company, to benefit from limited liability in undertaking trading, and a trust to transfer the shares to successive generations who would then benefit from the protections of Cayman law. The Foundations Companies Law 2017 introduced the foundation company as a new and alternative structure to trusts for private client wealth management and succession planning. The foundation company has separate corporate personality and incorporates the existing Companies Law regime with certain exclusions and modifications. The foundation company is designed to function like a civil law foundation but can incorporate by specific drafting the well-recognised principles and precedents relating to trusts, and benefits from the same protections as a trust under the Trusts Law with regard to excluding community of property claims and forced heirship and the asset protection legislation.

The foundation company has inherent flexibility and can through its articles of association, be tailored to give effect to client-specific considerations with respect to ongoing management and control and the dispositive regime, which makes it suitable for a wide range of high net worth private client needs as well as for certain corporate commercial transactions and particularly in relation to off-balance sheet structuring.

Beneficiaries may or may not be given specific interests and enforceable rights. The duties of the directors who manage and control the foundation company are subject to the supervision of the founder or a supervisor or a board acting as such. A major advantage of the foundation company is that when incorporated, it does not require a trustee and significant annual savings can thereby be effected over its life. Furthermore, the technical legal aspects apart, there is a psychological advantage in the use of the foundation company in that this is a company owned and controlled by the founder and which avoids the suggestion inherent in trust structuring that the settlor must transfer assets to an independent trustee over which he or she has limited or no control.

This particular advantage should be carefully balanced against any potential suggestion in divorce proceedings that the foundation company is a 'sham'. If this is found to be the case, then, as when the powers and duties of a trustee are undermined by overmuch reserved power, the protection offered may be at risk of being lost as the assets may be treated by the Court as the personal assets of the settlor or founder.

With a traditional trust or foundation company in mind, the following summarises the advice to the high net worth client who seeks to avoid the dilution of wealth outside the immediate family on divorce, forced heirship or or community of property claims.

1. It is in the best long term interests of the settlor or founder intending to establish a structure to benefit successive generations that a careful well thought out plan appropriate to the circumstances and underlying commercial or investment assets is developed.

2. In foundation companies, suitable powers can be reserved to the founder and to any supervisor or supervisory committee under the foundation company to ensure that the founder, or any such committees, have appropriate authority to manage and control the foundation company. This benefit should be balanced against potential attacks in divorce proceedings that the level of control retained undermines any protective powers and duties.

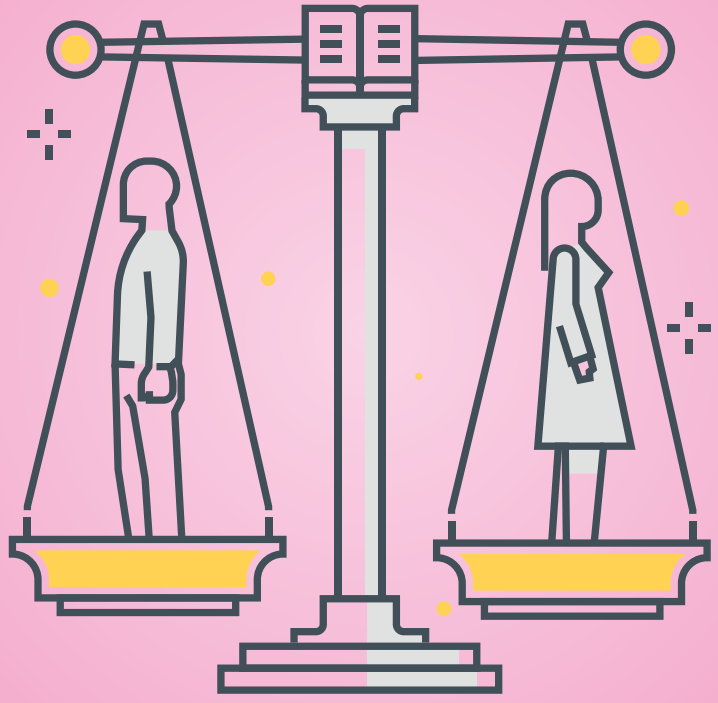
3. Trustees and/or directors of foundation companies should be, to the extent possible, removed from the jurisdiction of Courts that are likely to be hostile to the trust or foundation company and its dispositive regime.

4. The structure must have the ability to continue smoothly after the settlor or founder's death, thus the establishment of a formalised structure with appropriate reporting and information flows is essential.

5. The structure should be conservative in its aims and acceptable to the settlor or founder's family and heirs as a whole.

As a British Overseas Territory, the Cayman Islands is exceptionally well placed to form a trust or foundation company for the benefit of future generations, and is an ideal jurisdiction to ensure generational wealth is protected from the claims of spouses or forced heirs and future creditors and which, with appropriate onshore advice, avoids or minimizes taxation and estate or inheritance taxes.

DIVORCE AND FAMILY LAW



THE YEAR IN REVIEW

Authored by: Amrit Singh - Austin Kemp Solicitors

It has been a momentous year for family law in England and Wales, with the most fundamental change to the law on divorce for fifty years. But there have also been other significant developments.

In this brief review we look at some of the most significant developments, and how they may affect the practice of family law in the future, in particular with regard to resolving financial remedy disputes on divorce.

Ending the 'blame game'

We must begin with that fundamental change to the law on divorce.

In April the old, largely fault-based, divorce system was replaced by a new system that does away entirely with the need to blame the other party for the breakdown of the marriage.

And the new system has proved to be popular, initially at least. The Ministry of Justice reported that between April and June there were 33,234 applications made under the new law, 78% of which were from sole applicants, and 22% from joint applicants (the new law enabled both parties to apply jointly for the divorce, for the first time).

There were 33,566 applications altogether made under both old and new laws, which was an increase of 22% from the same quarter in 2021, and represented the highest number of applications in a decade.

The big hope, of course, for the new law is that by doing away with blame it will lead to more couples resolving disputes over finances and children by agreement. It remains to be seen whether this hope will be realised.

Financial Remedies Court goes from strength to strength

First set up nationwide in 2021, the Financial Remedies Court ('FRC') is now an established and permanent part of the Family Court.

The FRC deals with all financial remedy claims on divorce. The rationale behind the Court is to ensure that financial remedy claims are dealt with by specialist judges, and that there is consistency across the country as to how financial remedy claims are dealt with, in a system where judges are given a wide discretion as to what orders they may make.

The FRC has been a very welcome development, especially for those

with complex, high net worth, cases to resolve.

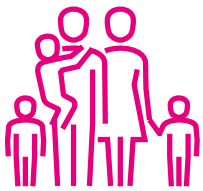
On 26 April 2022 Mr Justice Peel was appointed as the National Lead Judge of the FRC, where he will serve a four-year term. The FRC now has a detailed structure, setting out its zonal coverage of England and Wales, and the Lead Judge for each zone.

Reform of financial remedies law?

The new law on divorce also led to further calls for the reform of the law by which financial remedy claims are dealt with. Again, we will have to wait and see whether this comes to pass.

There was, however, one significant development this year. The FRC has been working with the Law Commission and others with the aim of gathering together the essential details of every case decided by the FRC. The culmination of this work to date was the introduction in February of a new form setting out the parties' circumstances where they wished the court to make an order giving effect to an agreed settlement.

Back in 2014 the Commission pointed out the potential benefit to couples of a numerical formula to decide financial outcomes on divorce, and explained the need to gather empirical data on decided cases, to help develop such a formula. The new form will, it seems, help with this exercise, although whether this means we are one step closer to the development of a formula is not yet clear.



New approach to children cases

Moving away from divorce finances for a moment, two pilot schemes have been running at family courts in North Wales and Dorset to test out 'pathfinder' courts, which adopt a new approach to dealing with cases involving disputes between parents over arrangements for their children.

Pathfinder courts have a particular focus on improving the experience of the family court and outcomes for survivors of domestic abuse, including children, seeking to reduce conflict by encouraging proceedings to be less adversarial. They also boost the voice of children, use a multi-agency approach engaging and developing working relationships with key local partners such as mediators and local authorities, and carry out reviews after decisions are made, to ensure that they are working well.

If the pilots are considered successful, pathfinder courts could well be rolled out across England and Wales, marking a significant change in the way in which the courts deal with disputes between parents over arrangements for their children.

Anonymity in financial remedy cases

Anyone who goes to court to have a financial remedies application determined obviously runs the risk that the court's judgment in the case will be published. This is especially so if it is a 'big money' case.

And in such a case the parties, or at least one of them, will likely not want their financial affairs published for all to see.

In recent times this has not been such a problem, as financial remedy judgments have usually been anonymised.

But all of that may now change.

High Court judge Mr Justice Mostyn has made it clear that, in the interests of open justice, his default position is to publish financial remedy judgments in full without anonymisation, save that any children will continue to be granted anonymity.

And in a judgment published in June Mr Justice Mostyn went further, by saying that in his opinion "the standardised anonymisation of judgments is unlawful".

He made his position clear by stating that: "if very rich businessmen are in court fighting at vast expense with their ex-spouses over millions, then the public has the right to know who they are and what they are fighting about."

Another reason perhaps to resolve financial disputes out of court if at all possible?

Changes to CGT on separation and divorce

The last development is in relation to Capital Gains Tax ('CGT')

CGT has long been an issue for those going through separation or divorce, as a charge to CGT could arise on any property transfer between spouses that occurs after the end of the financial year in which they separate.

This has meant property settlements have had to be rushed, often dictated by CGT considerations, rather than considerations related to the separation or divorce.

Thankfully, this should soon be a thing of the past.

To give a little more detail, transfers between spouses are subject to a special rule, which is designed to ensure that they do not attract CGT. But the rule only applies if the transfer is made in the tax year in which they separate. After that, normal CGT rules will apply to the transfer.

In July the Government announced that it intended to introduce legislation which would make changes to the CGT rules so that the special rule extends to transfers made up to three years after the year the couple cease to live together.

If enacted, the new rules will apply to transfers that take place on or after 6 April 2023.

60-SECONDS WITH:

EMMA COWLEY
DIVISIONAL DIRECTOR – INVESTMENT MANAGEMENT
RBC BREWIN DOLPHIN

Q What do you like most about your job?

A I like how varied it is, no day is that same. And it's not all numbers and spreadsheets, whilst I do love that side of it, I really enjoy getting to know my clients and whilst I know I am not saving lives, I do get to help and make a real difference to the lives of those I work with.

Q What would you be doing if you weren't in this profession?

A I have always said that if I had my time again then I would choose to study engineering. But I also grew up on a farm and often feel drawn back to that lifestyle.

Q What's the strangest, most exciting thing you have done in your career?

A I haven't always worked in this industry, my career has very different roots to most. I began as a singer, so working with producers and singing on stages are probably some of the most exciting things I have done.

Q What is one of your greatest work-related achievements?

A I am incredibly proud of the financial wellbeing service that we have built and offer at RBC Brewin Dolphin. I have been involved since the start and I know we have helped hundreds of people with the work we have done and continue to do.

Q What has been the most interesting case you have seen in 2022?

A It's not a divorce case but who could possible not say that the Wagatha Christie case was not interesting?!

Q What do you see as the most significant trend in the finance sector in a year's time?

A I think there will be less of a focus on "ESG" or green or sustainable investing, and it will be less of a "trend". Not because there will be less demand for it but instead because I think that it will become the new normal and simply seen as part of how we invest.

Q What personality trait do you most attribute to your success?

A My work ethic, I work really hard and I compete with myself.

Q Who has been your biggest role model in the industry?

A My boss when I worked at Bank of America Merrill Lynch. He is retired now and would hate it if I named him, but I learnt so much from him. He worked hard and carved a career for himself whilst staying true to who he was and his beliefs.

Q What is something you think everyone should do at least once in their lives?

A Anything that involves stepping outside of your comfort zone. Everyone should try something they never thought they could do.

Q You've been granted a one-way ticket to another country of your choice. Where are you going and why?

A I want to say Wales as that is where my family are originally from and I love it there but that feels like a very boring answer! Alternatively, probably somewhere like the Maldives, they are beautiful and amazing and I would hope that whilst enjoying all they have to offer I could also spend some time helping them with the sustainability and climate issues they face.

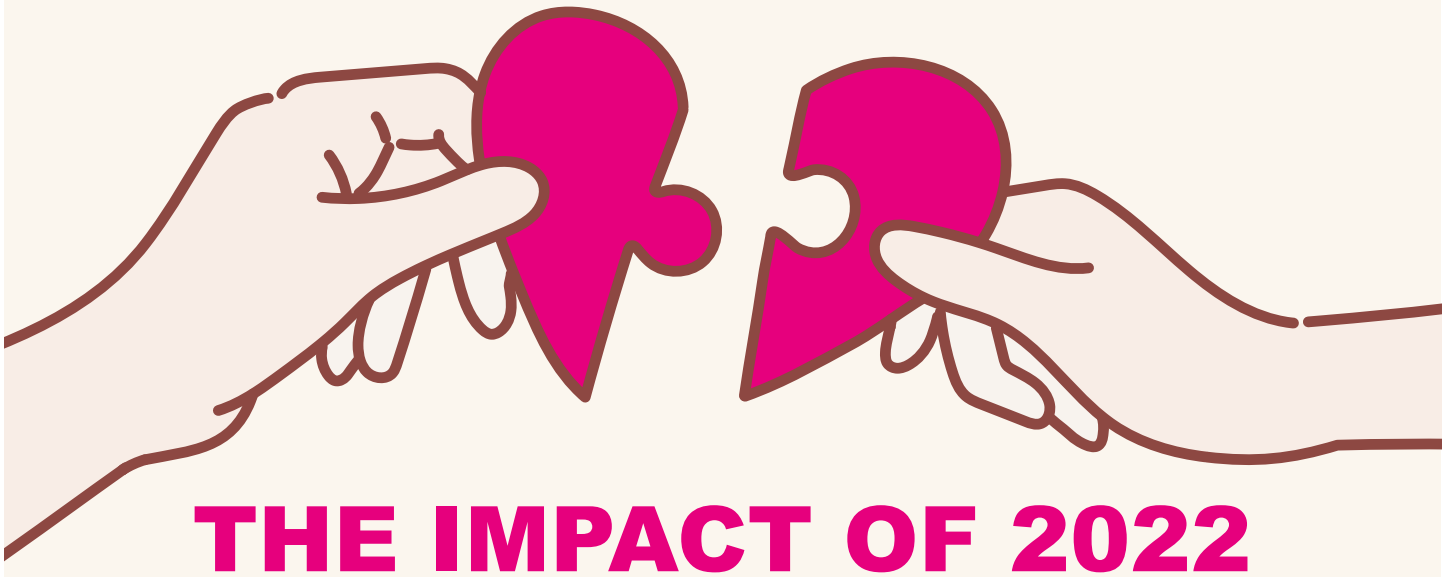
Q What is a book you think everyone should read and why?

A The Harry Potter books, I can't pick one, they are all fantastic. Being dyslexic, reading was always challenging, I found the Harry Potter books in my 20's and they helped me to fall in love with reading for pleasure. I would also recommend Oi Frog! If you have a small child, it's funny for adults too!

Q Reflecting on 2022, what three words would you use to sum up the year?

A Chaotic, volatile, challenging

MATRIMONIAL LAW



THE IMPACT OF 2022

Authored by: Laura Jennings - A City Law Firm

2022 has seen the most disruption in Matrimonial law for many, many years. The introduction of the Divorce, Dissolution and Separation Act in April and the No Fault Divorce that came with it, has been a change welcomed by many practitioners.

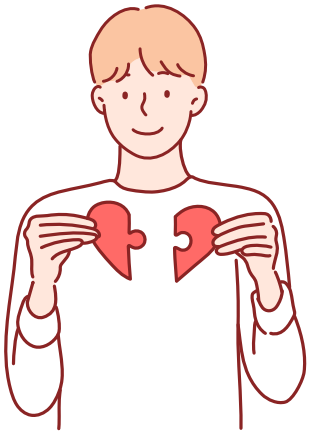
No Fault!!

The no fault element is far more reflective of modern times and of the 'on the ground' situation for many married couples facing the end of their road. It has avoided the un-needed hostility caused by the Unreasonable Behavior petition, that is the only option if they are not wanting to wait for two years to issue the application.

The parliamentary concern that was that the no blame divorce would lead to it being too easy to walk away from the sanctity of marriage does appear to have been alleviated. The application has a 'cooling off' period of twenty weeks from issue. Once the window of twenty weeks has elapsed, the Conditional Order can then be applied for, six weeks and one day from then, the Final Order can be applied for. Many may want a swifter means of divorcing and we did believe this process would be quicker than the traditional route, but the sanctity of marriage and time to reflect seams to still to be an important factor in the legal process.

The initial twenty week waiting time may seem somewhat credit agreementesque but it does avoid the rash, fueled applications progressing in a costly and acrimonious manner. Statistically Christmas Day divorce applications do appear and we as lawyers see these impulsive decisions and without needing to attribute blame, could after heated words, a cold turkey and several vinos, seem to be the best gift ever. The twenty-week period thereafter could provide reflection time as to whether it actually is.

Not only is no fault required, but both parties can apply together rather than in opposition. The collaborative nature of the joint No Fault Divorce application and the compliance required from both parties to progress, is encouraging for the surrounding and often more problematic issues when the marriage ends, such as finances and arrangements for children.



Doing it together!

The idea of a joint application does somewhat re-frame the traditional McCartney v Mills idea of divorcing couples. The adversarial, costly, bitter divorce and financial proceedings do appear to be heading into a more efficient, conciliatory, calm water which for the couples involved, is no doubt the better option. For those charging on the hour and thriving off of the contested elements of the bitter marital dispute, their days may appear increasingly numbered. However, its key to note the divorce alone does not resolve the finances, property and children these still are strongly advised to be considered; advised upon and legally supported.

All about the children

The No Fault Divorce joint application also naturally lends itself to the more amenable Parenting Plans, detailing the arrangements, holidays and key issues. There are also now specific apps on the market, such as Amicable: the co-parenting app which designs shared calendars and communications for co-parenting. This has been created to help manage aspects of co-parenting in one place. Clearly there is a market for such, and it can only assist the simplifying of co-parenting arrangements after divorce.

Innovation: Resolution

Resolution, always at the fore of family law matters, are also now pioneering, the One Lawyer One Couple approach, which again sits well with the No Fault Divorce landscape. This seams though unnatural and against the grain, but done wisely could this keep costs down, support a swift and amicable separation for everyone?

Resolution says it has liaised with the SRA to ensure the model operates within current regulations. Ordinarily Solicitors cannot act for both sides of a matter and if there is an own-interest conflict or a significant risk of one. The rules prevent solicitors from acting for both sides in a litigation or dispute but acting for both parties is allowed where there is no significant risk of a conflict arising.

A model whereby one solicitor can advise and guide a divorcing couple on for example the financial positions, is revolutionary from the hostile positioning of' get what you can -get the MIAM signed and get to court approach.' The idea is that the joint nature of the divorce itself, lends itself to many other post-marriage joint enterprises, often the first of which is the financial settlement. This will reply heavily on transparency , honesty and the desire to work together.

The benefit in doing so is that it avoids the expensive, combative approach and the loss of voice which can sometimes be felt, along with the inevitable dwindling of the matrimonial pot in legal fees. It is no doubt more time efficient and allows for an overall more empowered, collaborative approach to the division of the assets and arrangements on income, which is particularly beneficial when there are children or co-owned businesses involved.

In an ideal world, every divorce and the financial settlement would be reached amicably. One joint application, one lawyer advising on the perimeters of financial agreements and a Consent Order submitted making provisions that were borne of harmony rather than huge discord and resentment. Clearly this approach will not work in every case but the fact it is now there as a possibility, is something which ten years ago, would never have been envisaged.

Battling it out at court

The court system currently does not lend itself to quick resolution and in doing battle in such a way, the delays, costs and last minute cancellations of Hearings, means there are two losers rather any one winner. Well, strictly speaking there is one winner, which is the charging by the hour, stereotypical circa 1990s lawyer's billing figures but as they are not party to the battle, they should not really win! Many lawyers , like the author, charge capped or fixed fees , but if the battle becomes protracted even this approach can fail.

There is no criticism of contested proceedings as they are sometimes needed and for some the only progressive route. However, the preference for spending time and money alone, is very rarely contested proceedings and when the couples can be advised together, the hope is that the avoidance of such will increase.

The Future of Family Law

Overall , the No Fault Divorce and the new pioneering joint application process has opened the door to many other joint processes which can only be of benefit. Reasoned, balanced advice on a joint basis gives the divorcing couples the autonomy to choose whether they wish to throw themselves into acrimony and contested court proceedings or navigate the post-divorce financial matters and the governing Matrimonial Causes Act 1973, in a co-piloted way. It will not suit all but the ability to decide whether it will, is a fundamental change to the family law world. For divorcing couples, the re-branding of family lawyers as joint assistance, rather than one's adversary, is beginning.

We are excited to see how these innovative and disruptive changes will develop the divorcing landscape . We are prepared for the phases, the successes and the failures, in a hope we can evolve the overall process and help many families part ways effectively and avoid ripping their families apart.

COHABITATION, WHAT'S NEXT?

Authored by: Antonia Felix and Katy Walsh - Mishcon de Reya

Long gone are the days when cohabiting as a couple carried social stigma. Instead, cohabitation is the fastest growing family type in the UK, with about 3.6 million cohabiting couples in 2021. But even today, in the eyes of the law, the treatment of cohabiting couples is in stark contrast to the protections afforded by marriage. Is it time the law caught up with the realities of our society?

Protection for cohabitees

Although cohabitating couples do have legal protection in some areas (such as under the law relating to domestic abuse) cohabitation gives no general legal status to a couple.

Many are completely unaware of this and it is perpetuated by the idea that there is such thing as a 'common law marriage', an erroneous belief that after a certain amount of time living together, the law treats cohabitants as if they were married.

This is untrue.

It is a sad reality that many cohabitees emerge from a long-term relationship to find that they have no legal right to maintain the standard of the life they have built together. This is unless they have children together in which case they can possibly make a limited financial claim on the children's behalf.

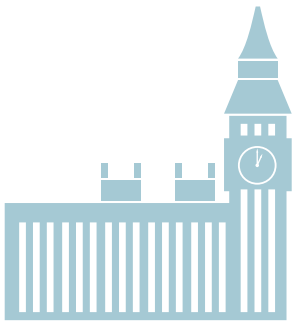
Cohabiting couples have no automatic rights to make claims against each other's property upon relationship breakdown and they must rely on the general law of contract, property, and trusts to resolve disputes. These can be difficult and expensive claims to bring and often give insufficient protection for parties who have made full contributions

in the relationship and to family life, but are not named on the title deeds of their home. Further, there is usually no claim to their partner's pension on cohabitation or separation other than a potential claim on death.

A cohabitation agreement can be a very good option for couples planning to live together as it clearly defines their intentions and expectations can be adjusted depending on what is agreed regarding property and finances on a relationship breakdown. But to enter into an agreement, couples have to first to be aware of the potential claims they do, and crucially, that they don't have.

Many couples don't think of entering into a cohabitation agreement, as they don't realise that they potentially don't have any claims without one.

Family lawyers have called for change to the law regarding cohabiting couples for many years, given we see what happens on a regular basis to unmarried couples when they break up. There was some optimism that changes were afoot regarding the rights of cohabiting partners. Unfortunately, for now, any reform has been put very squarely on the back burner.



Proposed reforms and the Government's response

The House of Commons Women and Equalities Select Committee published a report in August 2022 on "The Rights of Cohabiting Partners". The report called for reform to family law in England and Wales to better protect cohabiting couples and their children from financial hardship in the event of separation suggesting a scheme for cohabiting couples which, unless they chose to "opt out", would potentially permit financial claims on separation, albeit much more limited than those available on a divorce.

On 1 November 2022, the Government published its response which was brief and largely negative, rejecting the Committee's calls to implement its recommendations, leaving questions as to when constructive change will be made to reflect modern living and protect cohabitees.

The report highlighted the lack of protection afforded to cohabiting couples, with Resolution describing their position as one of "legal limbo".

The Government's response to the recommendations of the Women and Equalities Committees can be summarised as follows:

1: **The Government should conduct a public awareness campaign to highlight the legal distinctions between getting married, forming a civil partnership, or choosing to live together as cohabiting partners**

The Government "partially accepts" this recommendation. It agrees that it is a concern that so many people believe in common law marriage, (46% of those surveyed, a figure the report described as "staggering") but the Government does not consider a national campaign necessary. Instead, it will consider how to raise awareness "within the context of existing frameworks".

2. **The Government should undertake a targeted information campaign aimed at women in religious communities where religious-only marriages are commonplace, highlighting the risks of not having a ceremony which meets legal formalities. Such a campaign will need to consider the Law Commission's recommendations for weddings law reform**

Again, the Government partially accepts this recommendation. It notes that the recent Law Commission report on weddings highlights this problem and the Government will consider all the recommendations in that report before considering whether to carry out a targeted information campaign.

3. **The Government should reform family law to better protect cohabiting couples and their children from financial hardship in the event of separation. We recommend an opt-out cohabitation scheme as proposed by the Law Commission in its 2007 report on the financial consequences of relationship breakdown. The Government should make a commitment to publishing draft legislation for pre-legislative scrutiny in the 2023–24 Session of Parliament. In the meantime, the Ministry of Justice should commission a refresh review of the Law Commission's 2007 proposals to see if they need updating**

The Government rejects this recommendation. Given there is work underway on the law of marriage, and the Government has committed to conduct a review of the law on financial provision on divorce, it considers it must complete those processes before looking at any provision for cohabiting couples. It also noted that the Law Commission's 2007 recommendations on the rights of cohabiting couples are 15 years old and that there would need to be a review but also a fresh consultation.

4. **The Government should immediately implement the Law Commission's 2011 recommendations concerning intestacy and family provision claims for cohabiting partners**

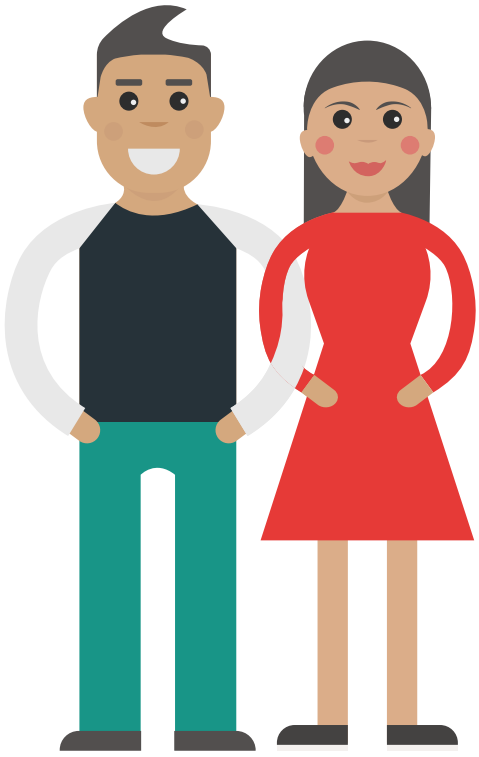
Again, the Government rejects this proposal. It notes that the proposed reform could be divisive,

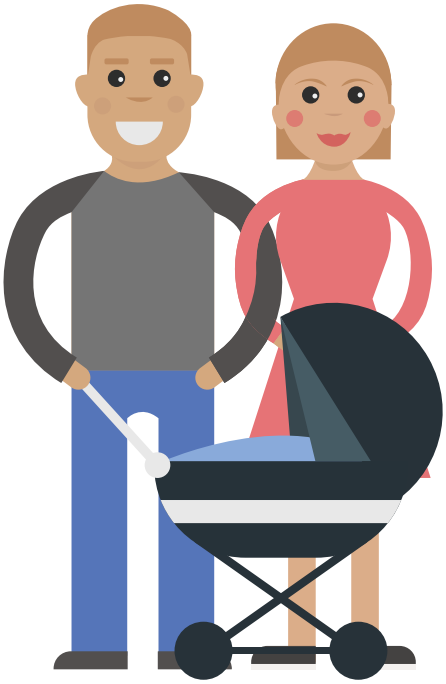
as it may promote the interests of cohabitees over those of family members of the deceased. The Government intends to "take a cautious approach" in this area. It notes that there is already freedom of testamentary capacity and that cohabitees can potentially apply for financial provision under the Inheritance (Provision for Family and Dependants) Act 1975 if they have cohabited for more than two years.

5. **The Government should immediately publish clear guidelines on how pension schemes should treat surviving cohabiting partners, including what those partners are entitled to, and what evidence they will need to access survivor's pensions**

Although the Government accepts this recommendation in principle, it regards the diversity of pension offers as one of the strengths of the UK system.

It therefore considers that it should remain up to employers and trustees to determine the right level and shape of benefits to offer, as schemes are best able to

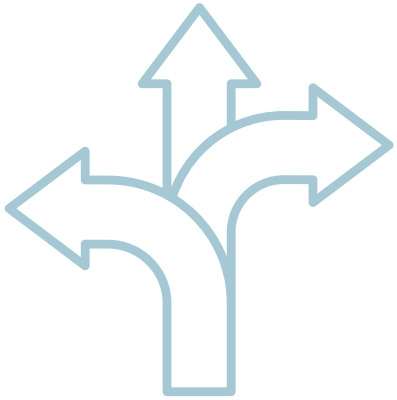




make this judgement themselves. It does, however, accept that there should be more guidance available.

6. **The Government should immediately review the inheritance tax regime, so it is the same for cohabiting partners as it currently is for married couples and civil partners**

The Government rejects this recommendation as "the inheritance tax treatment of married couples and civil partners reflects their unique legal relationship".



Where do we go from here?

Many family lawyers and judges have long called for reform in this area and no doubt this recent response will galvanise further action. Campaigners will continue to press for reform and to raise awareness amongst the public of the lack of legal rights and remedies for cohabitants on a separation. This includes the steps they can take to strengthen their position, such as entering into a cohabitation agreement. Yet until steps are taken to provide greater protection for cohabiting couples, this will only help alleviate the problem, rather than fully solving it.

IT TAKES AS MUCH ENERGY TO WISH AS IT DOES TO PLAN

Authored by: Joanna Kay - Rayden Solicitors

'No fault divorce'. April 2022 heralded a new era in divorce law with the Divorce, Dissolution and Separation Act. Now, the statement of irretrievable breakdown on the petition is evidence enough; this is a simpler process, with simpler language and, most importantly, means that the first step of the divorce process is no longer a blame game. This cuts the time and legal fees involved and starts the process in a more amicable, or at least a less hostile way. We need to consider how to extend this approach into discussions about financial division on relationship breakdown. Whilst we can adopt conciliatory and constructive approaches to these discussions and recommend processes such as mediation and collaborative law where appropriate, one of the best ways to simplify the financial process on relationship breakdown is by planning for it in advance.

The writer Gerald F Lieberman said that 'Divorce is a declaration of independence with only two signers'.

Independence – or freedom – from acrimony and hefty legal fees in the event of a separation or divorce can be achieved by entering into cohabitation agreements, pre-nuptial agreements and post-nuptial agreements. The certainty (as far as the law in England and Wales allows) means parties can use these as a very useful wealth planning tool. In England we have lagged behind other jurisdictions in terms of recognising the need for these discussions before marriage. Nuptial agreements were common in the US and in some countries in Europe too long before they gained traction on our shores. Whilst they have been increasingly used in England over the last couple of decades, over the last year we have seen a further increase in clients considering such agreements, planning how finances would be divided in the event of a relationship breakdown.

For those living together, the need for planning is as important as ever in light of the Government's recent rejection of the Women and Equalities Committee's recommendation for reform in this area. Cohabitants and their children remain unprotected and vulnerable to financial hardship in the event of separation. Whilst the government acknowledges it is concerning that many people mistakenly believe there exists the concept of 'common law marriage', it rejected the recommendation of an 'opt-out' cohabitation scheme as proposed in the Law Commission's 2007 report, instead focusing on a review of the law of financial provision on divorce. Whilst the Government does not consider a national campaign necessary, hopefully the Department for Education will commit to continuing to educate about the different types of relationship and implications of those. As lawyers, the increase we have seen in enquiries about these is heartening.

Nuptial agreements often appeal to those who are marrying later in life, or marrying already having achieved career success, or have multi-generational wealth or expect significant inheritance, or have been married before and want to protect finances for the children of their former marriage. However, we are seeing more couples with broadly similar finances, who simply want some certainty should the relationship not endure. With a recession looming, it is hoped that couples do not forego these agreements and view them as an unnecessary expense, but rather a safeguard to help against potential significant future legal fees. The writer Gene Perret said 'We have the greatest pre-nuptial agreement in the world. It's called love.'. But love is not enough; love can fade and statistics show us that there is no guarantee of a lifelong partnership. And increasingly, far from it being thought of as unromantic, partners are recognising that by being financially open and agreeing on a way out in a way that both of them are provided for is an act of planning and care.

We are, however, still seeing a significant number of couples starting to think about pre-nuptial agreements very shortly before the wedding. We receive panicked enquiries about these at the eleventh hour, when the couple would rather be adding the final touches to the flowers, catering and order of service. It is hoped that the more we talk about nuptial agreements, the more they will be on people's radars and the earlier couples will plan for them. Discussing finances before the marriage should not be taboo; without such an open discussion before the marriage it may well be harder to navigate financial conversations during the marriage.

If within a marriage one of the couple takes on the lion's share of financial organisation, the couple owes it to each other to ensure the other has at least a broad understanding of the family finances. It is part of a wider financial conversation sensible for all couples to have, for all circumstances where financial independence can be thrust upon one of them unexpectedly, not just in the event of separation and divorce but also in the event one is incapacitated or dies. Eleanor Roosevelt said, 'it takes as much energy to wish as it does to plan'; let us stop being squeamish about such discussions and plan for all eventualities.

High net worth divorces and family disputes

Our aim is to work collaboratively and strategically with legal teams to achieve the best possible outcome for clients.

We know that divorces can be messy, emotionally charged and sometimes extremely acrimonious. But we also know that with the right team in place, realisations can be maximised and even well-hidden assets recovered, so enabling your client to make a fresh start on a firm financial footing.

To find out more about how we can assist your client going through a divorce or dealing with a family disputes, please do get in touch.

We help you resolve disputes through:

- Intelligence and research
- Expert witness services
- Valuations
- Asset tracing and management services
- Formal appointments
- Insolvency appointments
- Debt enforcement and recovery strategies

Visit grantthornton.co.uk to find out more, or contact:

Hannah Davie
Partner, Head of contentious estates and family disputes
T +44 (0)20 7865 2849
E hannah.davie@uk.gt.com

Grant Thornton

DS1966

FORENSIC CHEATING

ENSURING A LEVEL LITIGATION PLAYING FIELD

Authored by: Claire Gordon and Daisy Tarnowska - Farrer & Co

A new era dawned on 11 January 2022, when Mr Justice Mostyn and His Honour Judge Hess issued a Statement on the Efficient Conduct of Financial Remedy Proceedings in the Financial Remedies Court Below High Court Judge Level with the approval of the President[1]. For many this was the long-awaited main course following the "entrée" of a similar statement in respect of Financial Proceedings in the High Court which had already been released on 1 February 2016. The Statement covers the entire financial remedy process from the point of issue to final resolution. It applies to every financial remedy case and every hearing below High Court level, the bread and butter for most family law practitioners. The Statement changes the way in which financial remedy practitioners (solicitors and barristers) must run their cases and a great deal more preparation and collaboration must now be undertaken in advance of any hearing.

Knowing the rules is critical of course, as is ensuring practitioners have sufficient time to comply. The box below sets out a summary of the rules. Preparing composite documents clearly requires the compliance of the other party (over which a practitioner of course has no control) and the run up to a hearing is a notoriously busy time. Enough time must be allowed not only to prepare the documents but to share them with the other party before the hearing. The statement makes clear that parties "must" collaborate to produce the documents and that it is unacceptable for the court to be presented at the FDR or final hearing with competing asset schedules and chronologies. For many cases this may be straightforward, but for complex situations agreeing these documents can be rife with difficulties.

What has become clear over the past year is that the judiciary are taking procedural breaches and non-compliance with court Orders, Practice Directions and Statements of Efficient Conduct very seriously.

If it is clear that it will not be possible to comply then practitioners should make an application to the court in good time seeking an extension of time or whatever relief is required. If they fail to do so and find themselves in breach of the rules or a court order, there is a risk of being reported to the professional body and also of a law report in the public domain for ever more reprimanding them.

In the recent case of Xanthopoulos v Rakshina [2022] EWFC 30 Mostyn J made preliminary comments criticizing the parties' "shocking' preparation for the hearing. He warned that: "the deliberate flouting of orders, guidance and procedure is a form of forensic cheating […] Advisers should clearly understand that such non-compliance may well be regarded by the court as professional misconduct leading to a report to their regulatory body" [3].

1 The Statement (and the accompanying template composite schedule of assets) was amended on 12 January 2022.

Admittedly that case was extreme in every sense with Mostyn J describing the costs as "apocalyptic" and "beyond nihilistic" (they were £5.4million at the time of that hearing and estimated to be between £7.2m and £8m by the conclusion of the proceedings). The procedural breaches in that case were numerous: -

- The husband's skeleton argument ran to 24 pages and the wife's skeleton argument ran to 14 pages (rather than 10 pages).
- Skeleton arguments were due by 11:00 on the working day before the hearing, but the husband's skeleton argument was filed only on the morning of the hearing, while the wife's skeleton argument was filed at around 17:30 the day before.
- the husband's statement was to be filed and served by 12:00 on 21 March 2022. However, the husband's statement was dated 22 March 2022 and the wife claimed that it had only been served on her on 24 March 2022.
- The same order also provided that the parties' statements for the hearing would be limited to 6 pages each, with any exhibit accompanying the same limited to 10 pages (a total of 16 pages). The husband's produced an 11 page statement with a 15 page exhibit, and the wife produced an 11 page statement and 28 page exhibit.
- There was to be one bundle limited to 350 pages of text, but the judge was provided with four bundles respectively containing 579 pages, 279 pages, 666 pages and 354 pages (some 1,878 pages).

In the case of WC v HC [2022] Peel J reprimanded both sides for a number of breaches and emphasised that "Court Orders, Practice Directions and Statements of Efficient Conduct are there to be complied with, not ignored." Referring to an order that he had made at the Pre-Trial Review which limited the parties' s25 statements to 20 pages of narrative to which the husband had complied but the wife had not[2], Peel J noted that "This is completely unacceptable, and W's legal team should not have permitted it to happen. The purpose of the restriction on statement length is partly to focus the parties' minds on relevant evidence, and partly to ensure a level playing field. Why is it fair for one party to follow the rules, but the other party to ignore them? Why is it fair for the complying party to be left with the feeling that the non-complying party has been able to adduce more evidence to his/her apparent advantage?

What does this mean for 2023? At its simplest, the additional planning and work required will surely at an even earlier stage throw into sharp relief the benefits of settlement for even the most recalcitrant of parties. Most importantly, no longer can parties screech up to the door of court with disregarded deadlines and flouted rules trailing in their wake and expect a blind eye to be turned.

A Headline Summary of the Statement on the Efficient Conduct of Financial Remedy Proceedings in the Financial Remedies Court Below High Court Judge Level

- **Allocation** – the applicant must file the allocation questionnaire at the same time as issuing their application unless wholly impractical. The applicant should also seek to consult the respondent for the purposes of completing the questionnaire.
- **Judicial continuity** – subject to available judicial resources, every case will then be allocated to an individual Judge at the earliest opportunity.
- **Obligations on practitioners before each hearing:**

First appointment

- The parties are to file a joint (or if impossible separate) market appraisal of each property currently used as family home 14 days before the First Appointment.
- The parties use their best endeavours to file no more than 3 sets of property particulars and joint (or if impossible separate) details as to mortgage capacity 14 days before the First Appointment.
- Questionnaires should not exceed four pages and longer questionnaires are only likely to be approved where justified by complexity, i.e. alleged non-disclosure.
- The applicant must file a composite case summary and composite schedule of assets and income based on Forms E using the approved templates (which are provided with the Statement)[3] 1 day before the First Appointment.

FDR

- The applicant must file an updated composite case summary and composite schedule of assets and income 7 days before the FDR
- The applicant must file a composite and neutral (in terms of the key dates and litigation) chronology 7 days before the FDR.

Final Hearing

- A final hearing template (i.e. timetable) must be prepared either at the PTR (which will be listed in every case where the final hearing has a time estimate of 3 days or more) or at the directions phase of an unsuccessful FDR (or at the subsequent mention hearing in those cases where the FDR was private).
- The applicant must file an updated composite case summary and composite schedule of assets and income 7 days before the Final Hearing.
- The applicant must file an updated chronology 7 days before the Final Hearing.
- A s25 statement should be limited to 15 pages (excluding exhibits) where possible and the 25 page limit in PD 27A 5.2A.1 should be regarded as a maximum.
- Court bundles are limited to 350 pages (absent a specific prior direction from the court). This does not include the position statements and the composite documents but it must contain the parties' Forms H or H1 (where applicable).The bundle must be filed not less than two working days before the hearing.
- Position statements are to be no longer than 6 pages at First Appointment, 8 pages for an interim hearing, 12 pages for an FDR Appointment and 15 pages for a final hearing (all page limits include any attached schedules).
- Position statements should be emailed to the hearing judge by 11am on the working day before the hearing.

Orders

- The order should be agreed and lodged before leaving court if at least one of the parties is legally represented at a particular hearing.

2 The Wife's statement purported to comply in that it consisted of 20 pages, but because it used smaller font and spacing it was, in fact, about 27 pages compressed within the 20 page limit provided for. The consequence is that her statement was about 33% longer than the Husband's.

3 These documents do not need to be agreed, but only one is to be filed and any differences between the parties should be noted easily.

A TRUST IN REVIEW

Authored by: Gilly Kennedy-Smith and Jeremy Wessels - Mourant

Over the last three years the pandemic has forced all of us to experience great change in our families, work and lifestyles. Some of those changes have been for good, where parents and children lived together again and were given the opportunity to consolidate their family ethos and financial planning. Not all changes have been a force for good and we have also seen the separation of couples and the division of matrimonial, dynastic and family assets.

Whatever highs or lows the family have experienced their advisors are a constant and able to guide them through key decisions. The client instigates some of those changes, but some should be instigated by the advisor; but what are they and what should you be considering that your client may not? In the case of a trust and divorce the first question is always going to be, 'when and why was the trust set up?'.

If it has been set up by a core family member during the marriage then those assets are matrimonial. However, if it was set up by an ancestor for the dynastic benefit of the family line then you will need to consider how that trust has been treated by the couple during the course of the marriage.

Regardless of this traditional line of questioning you still need to consider if the trust itself is actually fit for purpose in the modern world, in light of how your family and its culture have grown and evolved. This is the issue that we are increasingly encountering.

What we are seeing is that the often overlooked definitions clause in older trusts is causing trouble, in particular definitions of 'children', 'issue' or 'beneficiaries' which may not include modern concepts of the family.

We frequently see that modern concerns have evolved and the trust has not been reviewed to keep pace with them. Often surrogate children are not included (as they were not thought of at the time) or children have changed sex or are in a same-sex relationship. How your clients choose to define 'children', 'issue' or 'beneficiaries' or how they refer to their "sons" or "daughters" in their planning may greatly impact who gets what; with the end result not being as intended.

A letter of wishes is usually a useful guidance document to clarify the position for the trustees, however, this needs to be updated regularly, to be clear and to be supported by and reflective of the wording used in the legally binding trust.

If the letter of wishes says that your client's daughters, who have supported them in their old age, should get a greater share of the discretionary trust upon the client's death but one child has legally changed sex then this immediately puts the planning at greater risk of challenge. What is legally binding and what is mere guidance? How did the settlor or testator treat that child or intend for them to be treated

and how has the position evolved since the document was created and the current time? Does the position change if one of the sons identifies as a woman, but has not legally changed sex yet? What is clear is that gender and gender identity is a modern issue for most trustees, which historic drafting did not always cater for and which now leaves some children out in the cold.

By way of example if you had a dynastic trust settled for the male bloodline of the family, with the female relatives benefiting only if there are no sons, what would happen if the only son had a surrogate child using his wife's egg and a donor's sperm? This would mean that the son was potentially not of the bloodline and therefore unable to benefit. Of course that would depend upon the definition of 'children' in the trust.

What we often find is that surrogates are not included in the definition of 'children', leading to a question as to whether a child has been legally adopted by the husband.

You will then further have to consider if that legal adoption is legally recognised where the family are most closely connected to and to the legal system that the trust is subject to. If you add in the aggravations of a divorce or a contentious family dynamic then this is another issue to resolve when dividing assets and seeing to the proper financial provision of the children.

Another issue we see is that before knowing their children as adults many settlors chose not to include children who have same sex partners in the class of beneficiaries of trusts. However, as time evolved some of those children may have come out to their family, been fully embraced and their partners become much beloved members of the family, with those grandchildren being treated in the same way as any other grandchild. Fast forward to the patriarch or matriarch dying and the trustees' realise that the family wealth is now in a structure that did not include that child or treat them or those grandchildren equally with their siblings and cousins. You now have a highly emotive situation, which is likely to bring to light historic family dynamics to the detriment of the original planning.

Usually this is simply resolved by adding them to the beneficial class but sometimes that creates a feeling of 'other' within the family and sometimes it is not possible to add beneficiaries in or to rectify, vary or amend for some reason. Sometimes the trust is restricted in its powers and the power of the court can only extend so far.

What we usually see is that families forget to review their planning – forget that the trust was defined a certain way or think it's not important to tell their trustees that their long-awaited grandchild was, for example, a surrogate child by the parent not of the family bloodline. This could result in the trustees making a distribution in breach of trust. In a harmonious family that may be something that can be addressed and resolved to a certain extent, but what we have seen increasingly over the last five years is a parting of ways between not just spouses but branches of families, enabling them to invest to suit their particular needs and morals.

So while these examples may revolve around the family and reviewing planning we also see that they can often be highlighted by other key life events like the separation of a couple or the financial division of branches of a family. It is always useful to review planning and to spend time reviewing the often 'overlooked' definitions and letters of wishes when doing so, so as to avoid adding stress to an already difficult situation for your client. Any key life event warrants a preparatory review and analysis to avoid getting into trouble.

THE BANK OF MUM AND DAD

INTERVENOR'S CLAIM IN FINANCIAL REMEDY

Authored by: Trina Little - Westgate Chambers

A recent survey by real estate company Zoopla revealed that 64% of parents whose adult children own a home contributed towards a deposit[1].

The 'Bank of Mum and Dad' is well known to be a great lender with long borrowing agreements, no interest to pay and flexible repayment schedules. This arrangement can change quite suddenly, however, when the child's marriage ends and what appeared to be a soft loan on generous terms becomes a hard debt due for repayment.

There is therefore provision within the Family Procedure Rules for third parties, like parents, to be joined to proceedings if it will assist the court in resolving the dispute.

A financial remedy order only will bind the parties to the proceedings. It can therefore be necessary to join a third party to the proceedings so they 'intervene' in the case.

Situations where the issue of the joinder of an individual may arise are:

1. Where a party to a marriage asserts that the other party is beneficially entitled to a property held in the name of a third party.
2. Second situation is where the third party asserts that they have a beneficial interest in a property held in the names of one (or both) of the parties.

The legal test

The test that the court must apply when considering whether to join a third party is set out in FPRr 9.26B(1): a person or body may be added as a party to proceedings for a financial remedy if:

a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings; or

b) there is an issue involving the new party and an existing party which is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so that the court can resolve that issue.

This test is not onerous. If there is an asset that is in dispute, then this hurdle will likely be overcome but with consideration of the overriding objective of dealing with cases justly.

It is also important to consider whether joinder of the third party is proportionate, given the inevitable increased court time and legal costs which will be involved. There will most likely be an added stage of the proceedings namely the 'preliminary issue' hearing which will determine the asset in question and until that exercise is undertaken, it is unlikely that an effective FDR can take place.

1 https://www.independent.co.uk/money/64-of-parents-whose-adult-children-own-a-home-contributed-towards-deposit-b1972571.html

Procedure

The application for joinder is made under Part 18 using Form D11 supported by evidence of the proposed party's connection with the proceedings so a brief witness statement will suffice.

It is important that the application is made at an early stage, ideally at the First Appointment but certainly as soon as the relevant information comes to light.

The procedure is helpfully set out in the leading case of TL v ML[2]

The costs consequences

Beware of costs consequences. The court begins with a 'clean sheet', and the court can make such order as to costs as it thinks just (FPR, r 28.1).

Who can apply to join?

Where a spouse alleges that a property registered in the name of a third party is actually beneficially owned by the other spouse, the burden is on the claimant spouse to apply to join the third party to the financial remedy proceedings.

Where, however, a property is registered in the name of a spouse and that spouse alleges that it is beneficially owned by a third party, the burden of applying for the joinder of the third party rests equally with the third party and with the spouse who alleges that the beneficial ownership differs from the legal ownership.

Remember that the court under FPR 2010, r 9.26B(4) enables the court, according to the rule, to join a third party as intervener, on its own initiative:

Common evidential problems

If there was very clear evidence as to who owns the property for example, then it would be unlikely that a claim would be pursued. However, on the vast majority of these cases, a lot will rest on oral evidence, on unwitnessed conversations and there will often be a lack of independent evidence. Think creatively about what evidence might be available over and above the usual documentary evidence from the conveyancing file.

Conclusion

So in conclusion, consider:

Is the asset in question of significant value? This will be relative to the context of the case and the extent of the assets. These cases are very fact specific.

If it is found that the asset is beneficially owned by a party to the marriage, does that change the nature of what is available to the other party in any event? Consider the ultimate outcome if the disputed asset was found to be beneficially owned by a party to the marriage. Would the asset be considered as matrimonial or entirely non-matrimonial? If non-matrimonial, this may not be available for division in any event. However, if it is a needs-based case, the court would have the discretion to invade the non-matrimonial asset in so far as it is required to meet the parties' needs.

What would the potential consequences be if a third party was not joined?

Failure to litigate a third-party claim may have significant implications for one party's financial award upon divorce.

However, consider the delay, the increased costs and court time, a careful cost benefit analysis needs to be undertaken as part of any strategic planning at the start of a case as this route is not without risk. However, in many cases, the client may be left with no choice but to pursue this avenue.

With the increase of Bank of Mum and Dad loans to adult children, these cases may well be on the rise…

2 TL v ML (ancillary relief: claim against assets of extended family) [2005] EWHC 2860 (Fam), [2006] 1 FLR 1263

London
&Capital

A FRESH START: WEALTH MANAGEMENT POST-DIVORCE

For someone who has gone through a divorce and finds themselves managing their finances independently, the risks associated with financial decision-making can be a real concern.

We provide guidance on how to manage and sustain a settlement in the longer term, making it work for a lifetime. Our role is to guide our clients during this pivotal time, unravelling the complexities to ensure that their financial position can be understood, and the right decisions are made.

To arrange an introduction, please call 020 7396 3388 or, email us: invest@londonandcapital.com

JENNY JUDD
Director

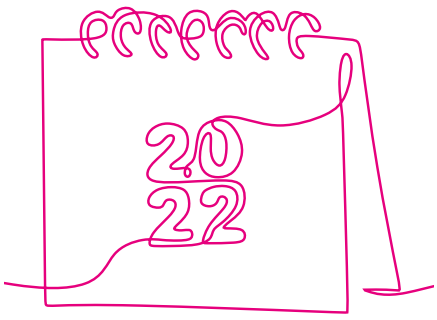
JESSICA CRANE
Executive Director

SURROGACY

WHAT TO EXPECT IN 2023

Authored by: Heather Jarrold-Taylor - Freeths

2022 has seen great changes in family law, specifically with the introduction of the long-awaited no-fault divorce. However, there are areas of the law that are drastically outdated and in need of reform, namely the law surrounding surrogacy and parental order applications.



Where are we now?

In the UK, the law on surrogacy has remained unchanged for over 35 years. The Surrogacy Arrangements Act 1985 creates the legislation on surrogacy in the UK, along with the addition of the Human Fertilisation and Embryology Act in 2008.

Since 1985, namely 37 years ago, there have been enormous advances both medically and scientifically in terms of surrogacy. It can also be said that there is no doubt that public opinion on the matter has significantly changed too, with people perceiving surrogacy to be an act of selflessness and kindness. Now, there is a vast community that are turning to surrogacy, such as same sex couples, heterosexual couples, and single men and women. It is clear the uptake on surrogacy is on the rise;

according to research by the University of Kent, parental order applications have in fact tripled in number between 2011 – 2020, from 117 applications in 2011 to 413 in 2020[1].

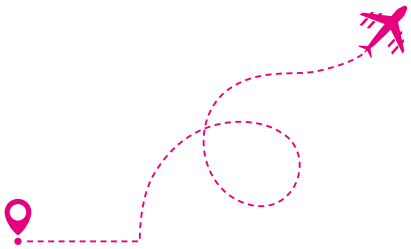
Currently, UK law is flawed with how it handles the transference of parenthood. In the UK, the surrogate mother who carries the child is treated as the mother of the child, regardless of whether she has any biological attachment to the child. This results in intended parents of the surrogate child being unable to be recognised as the child's parents at the child's birth; rather, the surrogate mother's name will be on the birth certificate. Notably, a surrogate mother cannot simply surrender her parental responsibility or legal parenthood. If the surrogate mother is married, her spouse will be named as the second parent (unless they do not give their consent).

Intended parents have no choice but to wait until the child has been born before they are able to apply to the Court for a parental order to become the child's legal parents. This can take many months, especially given the post-covid delays. During this time, the child and intended parents are left in an ill-defined situation. Though the child can live with the intended parents, by law they cannot make decisions about the child and their care despite being the true biological parents of the child.

UK law has failed to keep up with the ever-changing realities of modern-day

1 Surrogacy trends for UK nationals; our exclusive findings - My Surrogacy Journey - Blog

life. This failure has caused many to turn to surrogacy overseas, such as in the USA, and Georgia. Hopeful parents have been driven to the internet for information, using search engines, social media platforms and online forums to gain more knowledge and opinion.

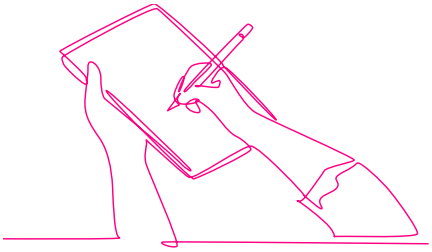


Surrogacy Overseas

Those turning to surrogacy overseas face even more difficulty. Under UK law, as mentioned previously, the surrogate mother is considered the legal parent of the child, even if the birth certificate registered in that country bears the names of the intended parents. This means that the intended parents still need to apply and obtain a parental order in the UK, leaving them once again in an unclear situation.

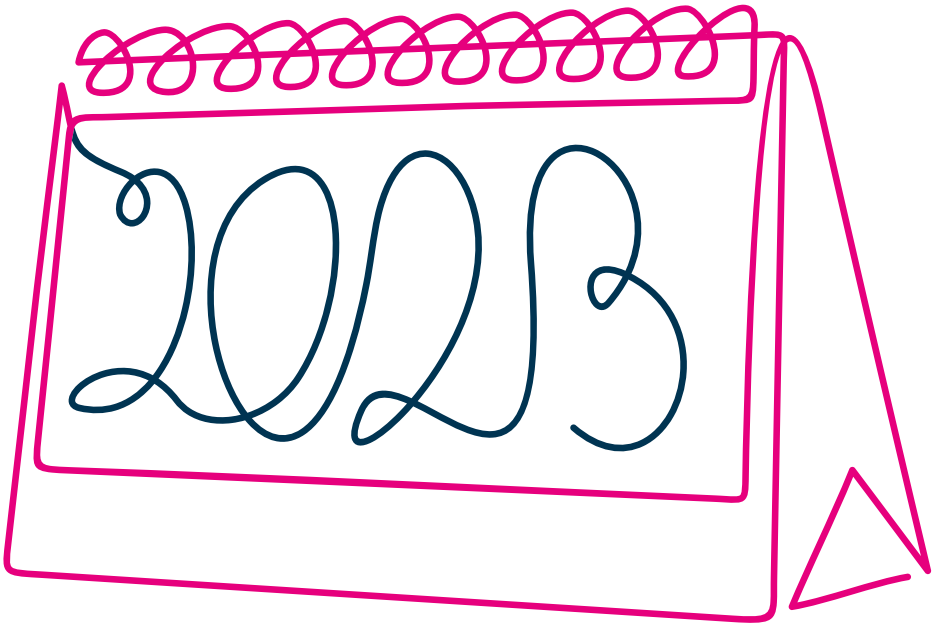
One country that intended parents have been turning to, until very recently, is Ukraine. The appeal of Ukraine has been that the intended parents are regarded as the legal parents of the surrogate child from birth and the surrogate mother has no legal status in relation to the child. However, despite this, upon the intended parent's and child's return to the UK, they are still faced with the daunting process of applying for a parental order.

International surrogacy arrangements are complex enough, with intended parents having to contend with another country's law and procedures to ensure that the surrogacy is lawful. However, with Russia's continued invasion of Ukraine since February 2022, surrogate mothers, new-borns and intended parents have faced immeasurable hardship, further complications, and hurdles, as the humanitarian crisis continues. Intended parents have faced fears for the new-born/unborn child and surrogate mother. In March 2022, the Home Secretary announced that the UK would give UK visas to surrogate mothers and their families to provide some reassurance to intended parents in the UK. This was also extended to surrogate children born in Ukraine.



What to expect in 2023

The failure of the UK law's ability to keep up with the 21st century has placed intended parents in a difficult position and the alternative option of overseas surrogacy is clearly both problematic and treacherous.



Thankfully, the Law Commission of England and Wales has acknowledged the problems with the current law. The whole process of surrogacy in the UK provides agonising uncertainty for the intended parents and surrogate. Intended parents are forced to wait for a vast amount of time, and jump through numerous legal hoops, to be recognised as their child's legal parents.

The Law Commission is currently in the process of drafting finalised recommendations for reform and a draft Bill of proposed changes. This was due to be completed in Autumn 2022 but has now been delayed to Spring 2023.

Some reforms that the Law Commission is considering are :-

- Developing a new surrogacy path that allows intended parents to be the legal parents of the child from birth;
- Allowing international surrogacy arrangements to be recognised in the UK;
- No requirement for a genetic link between the intended parents and the child;
- Introducing specific regulation for surrogacy arrangements and safeguards. This would include counselling and legal advice to reduce the risk of surrogacy arrangements breaking down; and
- Ensuring a written agreement is drawn up between the parties.

It is very clear that surrogacy law in the UK needs updating and change. The forcing of the hands of intended parents to travel overseas causes a great risk to all involved. The modernisation of UK law is not only welcomed, but urgently needed. Many of those considering surrogacy and practitioners in the field very much look forward to seeing in Spring 2023 which of the above proposals are included in the Law Commission's draft Bill.

60-SECONDS WITH:

TRINA LITTLE
BARRISTER
WESTGATE CHAMBERS

Q What do you like most about your job?

A I really enjoy the interaction with the clients and hearing their stories. It is a real honour to be someone's voice – for them to put their trust in you is an enormous privilege.

Q What would you be doing if you weren't in this profession?

A I am property obsessed so would probably be involved with that!

Q What's the strangest, most exciting thing you have done in your career?

A Many years ago, I was tasked by my clerks to impress a new solicitor as they had been 'courting' their business for a long time and this was our chance to impress…. On the way to court the weather turned and there was a terrible snowstorm. It was so bad that I had to abandon my rear-wheel-drive car halfway up a hill and the only option I had was to hitch hike to court! Thankfully, a woman in a 4x4 stopped and she kindly drove me all the way to court. The solicitor was certainly impressed with my endeavors, but unfortunately, the client was not as determined as me and didn't turn up!

Q What is one of your greatest work-related achievements?

A Sitting my bar finals with a 5 day old baby and passing them! My parents came with me and sat in a room next door with the baby whilst I sat my exams with my own invigilators – every so often there would be a knock at the door to say that the baby needed feeding so I would halt my exam, the clock would be stopped and I would feed the baby and then return to my exams. I am really proud of that achievement. I look back now wondering how I even did that but it shows that hard work and dedication pays off…

Q If you could give one piece of advice to aspiring lawyers, what would it be?

A Have confidence – even if you are not feeling confident! You will very quickly get the hang of things and your confidence will build. Your client will want to know that they are in safe hands. Also be kind and considerate to everyone along the way…good manners cost nothing and will leave a lasting impression. And in the words of my pupil supervisor – learn from mistakes made by others….

Q What do you see as the most significant trend in your practice in a year's time?

A Due to the backlog and delays, I believe that private FDR's will increase…

Q What personality trait do you most attribute to your success?

A Tenacity – when I was a child people would say to my parents that I didn't understand the meaning of no and I am the same to this day. Also, communication - with my instructing solicitors and clients. I like to work closely with my instructing solicitors to make sure we are on the same page – 2 heads are better than one and being able to communicate to clients who are from different walks of life and being able to adapt and calm people when they are in a usually very stressful situation is so important.

Q Who has been your biggest role model in the industry?

A Baroness Shackleton of Belgravia LVO

Q What is something you think everyone should do at least once in their lives?

A Build a house – knowing that you have created something that will be standing long after you aren't is a rather special feeling

Q You've been granted a one-way ticket to another country of your choice. Where are you going?

A Canada – being lucky enough to have spent a few months there in 2019, it is the most incredible, beautiful place. Canoeing on Lake Louise was a complete bucket list moment…

Q What is a book you think everyone should read and why?

A Jonathan Livingstone Seagull by Richard Bach. My husband gave me a copy when we were at university and I was struck by how inspiring it was.

Q If you had to sing karaoke right now, which song would you pick?

A Would have to be a Madonna classic probably 'Into the Groove'

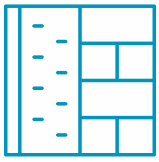
THE LEGAL FIRST-AID KIT

FIRST STEPS TO TAKE WHEN YOU ARE CAUGHT IN A LEGAL STORM

Authored by: James Carroll and Lucy Gledhill-Flynn - Russell Cooke

As a reader of the HNW Divorce Magazine, you might be expecting practical advice and technical knowledge of the titular subject, or at the very least, about the wider spectrum of family law issues. However, as legal professionals we are no strangers to our clients encountering a myriad of issues in their daily lives and then reaching out to us for guidance as their trusted port of call. It may well be issues that clients experience themselves or that when they call their lawyers about their divorce, they end by asking a question about their sister's impending redundancy at work.

We all want to put our best foot forward in any legal dilemma. Being able to show our clients that their problems are our problems (divorce related or not) is crucial to demonstrating good client care. With that in mind, we've put together a legal first-aid kit for some common issues we've encountered over the last year. These solutions may not solve the entirety of a legal problem in one fell swoop, after all we must all stay in 'scope', but they may go some way to offering some immediate reassurance craved in a moment of panic.



I'm a leaseholder and I've just been told that my apartment contains unsafe cladding. What should I do?

Not all cladding on all buildings would pose an issue. Find out from your landlord what steps have been taken by the building owner to ascertain the materials used in the 'external wall system' ("EWS") and whether an EWS1 form has been obtained and if so, what rating. The EWS1 form sets out whether remediation is required to address any defects and is frequently required by mortgage lenders and building insurers. If remediation works are required, check if your landlord has submitted a claim to the building's warranty provider.

It is important to establish the height of your building for a number of reasons. Historically more stringent building regulations and guidance apply to buildings of a height of 18 metres or more. This may play a part in any recourse available to your landlord against the building's developer in the recovery of any remediation costs.

Firstly, if your building is over 18 metres high and there are defects found in the EWS that require remediation, check with your landlord if an application has been made to the Building Safety Fund for the costs of the remediation works. The Government is also planning to launch a separate fund for buildings over 11 metres high but under 18 metres.

Secondly, leaseholder protection measures relating to remediation costs introduced by the Building Safety Act 2022 apply to buildings of a height of 11 metres or over. If your building benefits from these measures, find out if your landlord is associated with the developer of your building. If not, then check whether you are eligible for other leaseholders protection measures under the Act which is dependent on the length of your lease, whether you own more than 3 properties in the UK and the value of your property.

Something Defamatory has been posted about me online. What should I do?

There has been much media focus on high profile online spats this year. Clients may be tempted to think they also should be taking similar such action if offended online. The first step is to ascertain if an online statement is actually defamatory. Think: does the statement or content lower you in the estimation of 'right thinking members of society' generally? Will it have a substantially adverse effect on the way people will treat you? Has it caused or will it likely cause serious harm to your reputation?

If yes to the above, you should first contact both the person who made the statement and the social media platform it was posted on to request that that the offending is taken down. If they refuse, you should issue a formal notice to the owner of the webpage for it to be removed reserving the right to issue proceedings seeking relief for defamation.

If this fails, you could consider issuing proceedings against the platform and/or the person(s) who made the statement. However, the threshold to succeed is very high – as are the costs (so a costs benefit analysis is always needed). The Supreme Court has set a higher threshold than previous when determining the "serious harm" test. Key though is that defamation claims have a 1 year limitation period (starting from the date of the action, i.e. the publication of the defamatory content) – do don't delay if action is proposed.

I have been asked by my employer to take part in a formal interview about my conduct. What should I do next?

The first step would be to check if the formal interview will be an investigation meeting or a disciplinary hearing. If it's an investigation meeting, you will not always be given advance warning about what is going to be discussed. It's important to give truthful answers and to bear in mind that the answers you give may lead to formal disciplinary proceedings (either in relation to the initial concerns, or in relation to any untruthful answers). If you are not sure about something you should ask for the time and opportunity to check the position before responding.

In contrast, a letter inviting you to a disciplinary hearing should make that clear and state the range of potential disciplinary outcomes. It should also set out very clearly the allegations and evidence in support being relied on against you and you have the right to object if this has not been done. It is always worth preparing very carefully for such a hearing and you should be given adequate time to do this and to take legal advice.

I have been served with a statutory demand, what should I do next?

A client's first instinct may be to panic: will the value of the debt increase if immediate action is not taken?

However, there is time – a statutory demand should be addressed within 21 days: options include:

1) Challenge it, for example, because you do not agree that you owe the money being claimed from you, then you can apply to Court to have it set aside though this option must be carried out within 18 days (not 21 days) of receiving it;

2) Pay the debt in full if you agree it is due and you can afford to do so;

3) Engage with the creditor to negotiate an agreement. This may include agreeing to pay the debt by instalments, asking them to agree to reduce the amount being claimed or offering them security on property you own. But make sure this is all properly documented!

It is crucial not to ignore the statutory demand. Failure to take any steps within the 21 day deadline can lead to bigger problems and will permit the creditor to commence bankruptcy proceedings against you to recover the money they claim is owed to them. So don't simply ignore it.

I am a landlord and I need my tenant to vacate the premises, they are refusing. What can I do?

There are various different ways to obtain possession of your property, even if the tenant is refusing. Before you can determine what your options are, you will need to determine the status of the arrangement. Is it a fixed term tenancy? A periodic tenancy? If so, what is the frequency? Short term lets are often regarded as "assured shorthold tenancy agreements" for which there are specific regulations in place.

Also determine whether there has been a breach of any of the tenant's obligations during the duration of the tenancy. Common breaches include rental arrears or unlawfully sub-letting the property. The circumstances may provide you with alternative options and grounds for seeking possession. With most types of tenancy agreement, you will need to provide the tenant with formal notice to vacate. If the tenant fails to do so, you could consider issuing possession proceedings. This is a last resort, since it is costly and there remain significant delays at court due to the existing backlog and general increase in landlord & tenant litigation post pandemic.

In conclusion: don't panic

It is completely normal to fall down a worm hole when encountering an unfamiliar legal issue. What's often needed is an individual to offer some quick guidance and support; with an understanding nod and steer in the right direction.

Knowing a little about a lot can help to steady a panicking individual as they attempt to weather any unexpected legal storm.

Transforming human performance, impact and wellbeing in legal business

Ineo develops individuals, teams and businesses for profound impact and lasting change beyond the realm of workplace

For further details contact
Steve Smith - Managing Director
M: +44 7545 814368
E: steve.smith@ineo-life.co.uk
www.ineo-life.co.uk

ineo
our future is human

GIVING CLIENTS CONTROL IN A PERMACRISIS

Authored by: Kate Bradbury - Brodies Solicitors

In 2020 it was 'lockdown' and in 2021 it was 'NFT' (non-fungible token) but what was Collins Dictionary's Word of the Year for 2022?

PERMACRISIS -

defined as 'an extended period of instability and insecurity'.

Just as we felt we were finally turning the corner from Covid-19, we were hit with war, political instability and economic uncertainty: a 'permacrisis' indeed. The lack of clarity and certainty in many areas of life, but most notably the economy, has had an impact on most business sectors. The legal profession is no exception.

During a crisis, people crave comfort and control - something family lawyers have noticed in terms of an increase in new instructions since the turn of the year. Taking action can help clients to restore control and overcome feelings of hopelessness or helplessness.

Taking control

They say that nothing is certain but death and taxes. Going through a separation is a turbulent time and often only those who have been through it can properly attest to that. Legal advisors have a duty to flag to clients the areas in which they can control, regulate or plan for their future.

Future finances (with and without a ring)

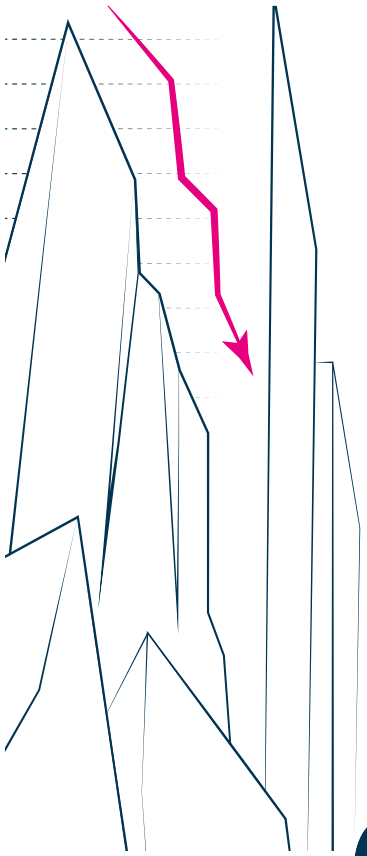
A pre-nuptial agreement can be a hard sell to the client wearing rose tinted glasses.

However, the use of such agreements is becoming increasingly common. For many HNW clients, protecting family wealth is important. Pre-nuptial agreements give clients choice and control. In Scotland, as long as the

terms are fair and balanced, the client can be assured that such agreements will be difficult to set aside. These agreements are something of an insurance policy and of course, people sign up to contracts regularly – a new mobile phone, a rental agreement or TV subscription. They all have T&Cs and lay out what happens if the relationship between consumer and provider breaks down – so why not the same for a marriage or civil partnership? It is important that clients do not lose sight of what promise (or indeed contract) is being made when the words 'I do' are uttered.

In Scotland, changes may be on the horizon in relation to the rights of cohabiting couples on separation.

The Scottish Law Commission's report on cohabitation, published on 2 November 2022 recommends various changes to the existing law, and follows a lengthy consultation process with lawyers, advocates, academics and the public. Decision makers have a wide discretion in cohabitation cases in Scotland; as a result, advising clients as to possible outcomes is inherently difficult. A large element of judicial discretion is likely to remain, even if the recommended reforms make their way into the existing legislation. As such, Scottish cohabitants are advised to enter into cohabitation agreements.



Children

With the political and financial ups and downs of the last few months, there's been a loss of control over things which, until recently, worked smoothly. Petrol prices shot up, resulting in disputes between parents as to who should take responsibility for ferrying the children between houses. Where people were made redundant or suffered salary cuts, child maintenance payments were impacted.

This has resulted in increased instructions – often from existing family law clients – to renegotiate contact arrangements or maintenance payments.

Pets

The pandemic saw a rise in the acquisition of a new type of asset for many couples and families – a family pet. Could we soon see a new 'P' on the block; pet-nups? To some couples, a four-legged puppy is the 'ultimutt' equivalent to a two-legged toddler. The writer cannot be the only one to have drafted a separation agreement wherein the longest and most detailed clause related to the future care arrangements for the cat.

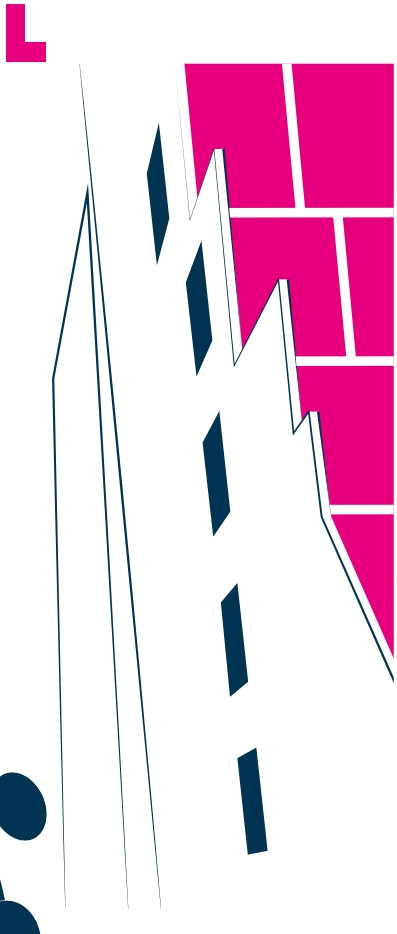
Encouraging clients to enter into some sort of agreement regulating the future care of the pet in the event of separation may well save them considerable anguish and legal expense down the line.

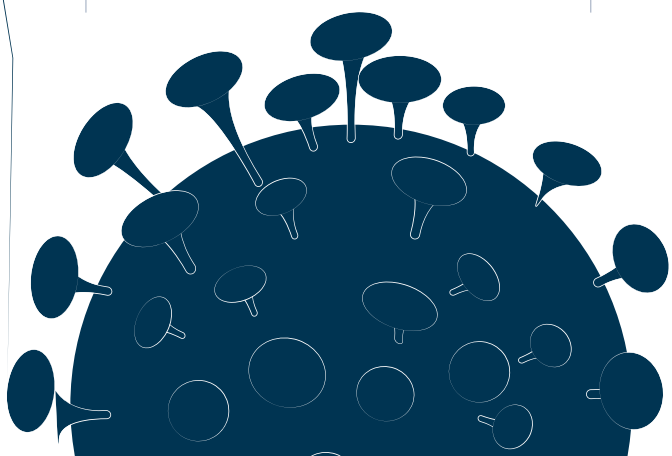
Support

It is imperative that family law clients are in a head space which allows them to properly focus on and understand matters, to empower them to make decisions. Having a support network around them assists. While friends and family have their place, that support network might include a financial advisor, counsellor or divorce coach and lawyer.

Looking forward

As solicitors, advocates and barristers, we can – and should - be highlighting to clients the various ways in which they might regain some sense of control at a time when they feel most lost.





THE UNSTEADY SHIP OF 2022

Authored by: Alex Carruthers and Stacey De Souza - Hughes Fowler Carruthers

It is safe to say that this year has been eventful on both a national and global level leading to ongoing concerns around stubbornly high inflation, slowing growth, and ultimate recession. This combined with the Russian-Ukrainian conflict, domestic political uncertainty and the "cost of living crisis" has some calling 2022 an annus horribilis in no uncertain terms. This has presented the divorce industry with unprecedented challenges across asset valuations, division of those assets and complications relating to access to justice.

It is perhaps unsurprising that a common allegation in divorce proceedings is that one party is deliberately undervaluing their assets and, as such, obtaining accurate valuations for a parties' interests is the starting pointing for any case. However, current market headwinds, ongoing volatility and inflationary/recessionary pressures are providing significant challenges to this computation exercise for individuals and experts alike as snapshots of asset values are not only potentially fleeting in their relevance but also in many cases undeniably depressed.

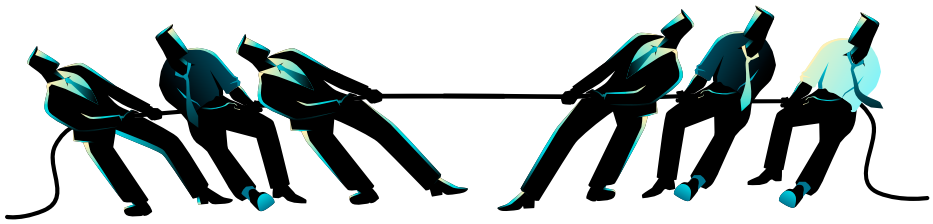
The end result that we are seeing is bottom-line figures on asset schedules that are much lower than one party might have anticipated (or hoped).

Divorcing individuals are therefore having to adjust their expectations, and in some cases their standards of living, in response to this economic uncertainty - making settlement discussions more sensitive.

This is further complicated by the ongoing and very real cost of living crisis. Surging inflation (and subsequent interest rate hikes) generated by the legacy of Covid-19 and the Russian-Ukrainian Conflict has generated supply chain disruptions across energy and other commodity markets and had significant knock-on effects on day-to-day living costs. Every household in the UK has felt this – with the words "heat or eat" unfortunately having been combined to reflect the challenges that millions are facing. From a divorce industry perspective, both recipients and payers of ongoing maintenance have had to re-evaluate affordability, and as a result, we have seen an increase in parties' income needs and a surge in applications to vary maintenance orders which are no longer viable or fit for purpose.

It can be argued that this stage of the economic cycle is not unique and that we have been here before. However, an unforeseen nuance to divorce proceedings this year has been the effect of the aforementioned Russian-Ukrainian conflict, which has thrown up issues around access to justice. It is common knowledge that many Russians have close ties to England and that some of England's highest profile divorces have been between HNW Russian individuals who have chosen the divorce capital of the world as the centre stage for their split. A significant number of law firms have now closed their doors to all Russian corporate and individual clients due to regulatory concerns stemming from the ever-growing and ever-changing sanctions list. This has meant that wealthy Russians, with no connections to the Russian government, have been inadvertently affected and limited in their ability to obtain legal advice.

Individuals with Russian-held interests (whether Russian themselves or not) are also being affected by the ongoing conflict and sanctions. Russian-based assets are increasingly being restricted, as well as depressed, and in some cases moving close to having no value at all as Russia is progressively more ostracized from international trade for the foreseeable future.



Assessing the value of Russian interests is now arguably an almost impossible task and even if it were possible to ascribe value with any certainty, there is still the challenge of limited economic recovery prospects and an inability to access the assets themselves.

It has not all been doom and gloom this year. One post-Covid positive to note is the evolution of a more technology-friendly court system. The continued use of electronic court documents and the ability to conduct hearings remotely (or in a hybrid manner) is more expedient and cost efficient for individuals and for the courts themselves. It is hoped that this will eventually go some way to assisting with the backlogs which the courts are still coping with post-pandemic.

Looking ahead to 2023, it is likely that we will see a continuation of many of the issues that 2022 has presented. As an industry, we will also have a keen eye to the ongoing debate surrounding transparency. The President's report, Confidence and Confidentiality: Transparency in the Family Courts, published on 28 October 2021 concluded that "the time has come for accredited media representatives and legal bloggers to be able, not only to attend and observe Family Court hearings, but also to report publicly on what they see and hear." Despite the opinions of much of our profession, many members of the judiciary are pushing for this approach to be adopted, and so we must begin to prepare our clients for the very real likelihood of their private matters becoming public.

ThoughtLeaders HNW Divorce

Meet ThoughtLeaders

Paul Barford
Founder / Director
020 7101 4155
email Paul

Chris Leese
Founder / Director
020 7101 4151
email Chris

Danushka De Alwis
Founder / Director
020 7101 4191
email Danushka

Maddi Briggs
Strategic Partnership Manager
07825 557739
email Maddi

Yoshi Montgomery
Strategic Partnership Executive
email Yoshi

Dr Jennifer White
Head of Production
07733 854 996
email Jennifer

Our HNW Divorce Community Partners:

Grant Thornton

KINGSLEY NAPLEY
WHEN IT MATTERS MOST

1KBW

SCHNEIDER
FINANCIAL SOLUTIONS

serle court

PCD Club

In aid of Refuge
For women and children.
Against domestic violence.

London&Capital
WEALTH AND ASSET MANAGEMENT

RBC

Brewin Dolphin

GLOBAL SEARCH