A Guide to Family Law

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Introduction

Family Law is a complex and constantly changing area of law which is relevant to most of us at some point during our lives, whether it be because we live with our partner, Divorce from our spouse or have legal issues regarding our children. It is an area of law that interacts with a number of other legal areas, for example marriage and Divorce impact upon the validity of a Will and its provisions.

There have been a number of changes to the Family Law system recently, most notably the introduction of the Single Family Court, further to section 31A of the Matrimonial and Family Proceedings Act 1984 (inserted by the Crime and Courts Act 2013) which exercises jurisdiction in all family proceedings. It is now advisable to check where Petitions and Applications can be issued by looking at the Courts and Tribunals website www.gov.uk/government as the Family Court is divided into separate geographical areas, each of which has a Designated Family Centre (DFC) which is managed by a Designated Family Judge (DFJ). A very limited number of cases will be automatically reserved to the High Court, for example where there are certain international elements.

A Guide to Unmarried Couples

Many people mistakenly believe that there is little or no difference between a married couple and a couple where the parties are cohabiting/ living together. Under English law, unmarried couples are treated quite differently to those who have married.

The claims someone may have against their former Cohabitant fall are dealt with under contract law, property law, the Children Act 1989, the Family Law Act 1996 and the Trusts of Land and Appointment of Trustees Act 1996 (ToLATA). Disputes between separating cohabiting couples can be difficult, time consuming and expensive to resolve.

On 25 April 2007, the House of Lords (the highest Court in England and Wales at the time) dealt with an appeal in the case of Stack v Dowden, a decision that was widely reported and, no doubt, sent out shock waves to people who believed that they were in a similar situation to Mr Stack and Ms Dowden.

The Government, recognising the problems that can arise, requested the Law Commission to report on possible changes to the law. The Commission did so on 31 July 2007 when it published its report entitled "Cohabitation: The Financial Consequences of Relationship Breakdown". Any reform has been put on hold for the time being. In the meantime, the Courts will continue to be asked to deal with complicated areas of law at great expense to the parties concerned.

On 23 April 2008, the judgment of the Court of Appeal in the case of Fowler v Barron was published. Properties held in joint names (a joint tenancy) are generally shared equally on relationship breakdown. If the property is held in unequal shares based on initial contribution to the purchase price (a tenancy in common), each cohabitant will take back their relative share on sale.

One party may seek to show that there was an agreement, arrangement or understanding to own a property jointly. The agreement could have been express or inferred from conduct. They must then have acted to their detriment, for example by making financial contributions, on the understanding that they would acquire an interest in the property. Alternatively, the claimant may have been led to believe that the property was to be owned jointly and acted to their detriment in reliance.

Unless and until the Government does introduce legislation to deal with the position, the best advice that a Solicitor can give is that parties should:
1. Seek legal advice before entering into any relationship that involves cohabitation; or
2. Obtain legal advice before purchasing a property jointly with another.

A Guide to Pre-Nuptial Agreements

Historically, pre and post-nuptial agreements have not been legally binding in England and Wales. Courts are increasingly upholding such agreements following Radmacher v Granatino [2010] and the principles established in that case are as follows:

- There is now a rebuttable presumption that Courts should give effect to pre-nuptial agreements;
- Nuptial agreements cannot oust the jurisdiction of the Court;
- The substance of nuptial agreements must be fair. They cannot be allowed to prejudice the reasonable requirements of any children of the family and a failure to meet a party's needs or to compensate them for relationship-generated loss may render it unfair to hold that party to the terms of the agreement; and
- The circumstances surrounding the making of nuptial agreements will affect the weight given to the agreement upon Divorce. If there is evidence of duress, fraud or misrepresentation, the agreement may be ignored. The weight attached to the agreement may be reduced if the parties do not take legal advice or have the benefit of disclosure prior to its execution. Best practice suggests that each party should have independent legal advice and that there should be disclosure prior to entering into the agreement.

Following Radmacher, great weight will now be given to both pre and post-nuptial agreements unless the terms are manifestly unfair. The Law Commission's Report, Matrimonial Property, Needs and Agreements was published on 27 February 2014. The Law Commission has confirmed the position in Radmacher, that nuptial agreements will only be upheld if they are "not unfair" and that such agreements cannot take a couple's arrangements "outside the scrutiny of the family Courts". The Law Commission has recommended that in order for a pre-nuptial agreement to be valid it must not have been made less than 28 days prior to the wedding or civil partnership ceremony.

The Law Commission has recommended that legislation be enacted to introduce "qualifying nuptial agreements" to enable couples to make binding contractual arrangements about the financial consequences of Divorce, with the Court only making Orders where the needs of either party or a child of the family requires it to diverge from the qualifying agreement.

In SA v PA [2014] EWHC 392 (Fam) the Court upheld a Dutch agreement as the parties were found to have freely and validly entered into the agreement. It was held that the parties had both had sufficient advice to enable them to appreciate its implications (even though the wife was heavily pregnant at the time and it was only signed on the eve of the wedding).

Luckwell v Limata [2014] EWHC 536 (Fam), further supported the Radmacher principles, holding that some considerations, such as the current and likely future needs of a party, are

capable of having the effect that an agreement should not be applied fully, in this case due to the ongoing needs of the husband.

Pre-nuptial agreements are becoming increasingly popular, particularly given the greater public awareness of the financial consequences of Divorce and the rising legal costs of the financial proceedings that can follow relationship breakdown. Similar comments apply to couples considering entering into a civil partnership.

A Guide to Divorce

The Court has jurisdiction in relation to Divorce and ancillary relief under Article 3(1) of the Brussels II Regulation if any of the following apply:

- The Petitioner and the Respondent are both habitually resident in England and Wales;
- The Petitioner and the Respondent were last habitually resident in England and Wales and one of them continues to reside there;
- The Respondent is habitually resident in England and Wales;
- The Petitioner is habitually resident in England and Wales and has resided there for at least one year before the Divorce Petition is presented;
- The Petitioner is domiciled in England and Wales and has been habitually resident in England and Wales for at least the six months before the Divorce Petition is presented;
- The Petitioner and the Respondent are both domiciled in England and Wales; or
- No Court of a Brussels II Regulation signatory state has jurisdiction and either party is domiciled in England and Wales when proceedings are begun.

A Divorce obtained by means of judicial or other proceedings in a country not a signatory to the Brussels II Regulation will be recognised if both (section 46(1), FLA 1986):

- The Divorce is effective under the law of the country in which it was obtained.
- At the date of the commencement of the proceedings, either party to the marriage was habitually resident, domiciled in or was a national of that country.

Section 46(2) of the FLA 1986 deals with Divorces obtained other than by means of proceedings. These Divorces are only recognised if both:

- The Divorce is effective under the law of the country in which it was obtained; and
- At the date on which it was obtained, each party to the marriage was domiciled in that country or either party to the marriage was domiciled in that country and the other party was domiciled in a country under whose law the Divorce is recognised as valid.

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A Divorce Petition cannot be presented to the Court, by the 'Petitioner', before one year from the date of the marriage. The sole ground for Divorce is that the marriage has broken down irretrievably. This can be established if one of the following five facts is proved:

- Adultery by the Respondent which means the Petitioner finds it intolerable to live with the Respondent (this can only be committed between people of the opposite sex);
- Unreasonable Behaviour by the Respondent which means that the Petitioner cannot reasonably be expected to live with the Respondent;
- Desertion of the Petitioner by the Respondent for a period of two years;
- Separation of the parties for a period of at least two years where the Respondent to the Divorce proceedings consents to the pronouncement of a decree; or
- Five years separation where the Respondent's consent is not required.

An undefended Divorce typically takes around four to six months. A Petition will be prepared along with a reconciliation certificate, stating whether the Solicitor has discussed with the Petitioner the possibility of reconciliation and whether the Solicitor has given to the Petitioner the names and addresses of persons qualified to help effect a reconciliation.

These documents are then sent to Bury St Edmunds Family Court, accompanied by a certified copy of the parties' marriage certificate and the relevant Court fee. The Petitioner's Solicitor will ask the Court to issue the Petition and (usually) will request that the Court serves the Respondent with the documentation by post.

The Respondent will be forwarded sealed copies of the Divorce Petition; the Notice of Proceedings and Acknowledgement of Service. The Acknowledgement of Service should be completed and returned to the Court, by or on behalf of the Respondent within seven days of service of the Divorce papers, as this evidences service of the Divorce papers upon the Respondent and confirms the following:

1. In cases where the fact relied upon is the Respondent's adultery, an admission of this by the Respondent will be accepted by the Court as evidence of such adultery;
2. The Respondent can confirm his/her consent to a Divorce where the fact relied upon is two years' separation; and
3. The Respondent can comment on any claim for costs contained in the Petition.

Once the Court receives the Respondent's completed Acknowledgement of Service (and provided that it has not been completed to show an intention to defend the Divorce proceedings) it will be photocopied, a Court seal will be placed on the copy document and that will then be sent to the Petitioner's Solicitor.

S/he then prepares an "Application for Directions for Trial (Special Procedure)" for a date for pronouncement of the first of the two Divorce Decrees (the Decree Nisi). Such an application has to be accompanied by a statement in support of Petition to which the sealed copy of the completed Acknowledgement of Service is attached.

Upon receipt of these documents at the Court, the file is referred to a District Judge who will

1. Ensure that the Divorce documentation is in order;
2. Ensure that the Petitioner has established that there has been an irretrievable breakdown of marriage and proved the facts necessary to establish this;
3. Consider whether to order the Respondent to pay the Petitioner's costs of the Divorce Proceedings; and
4. Determine whether there are any "children of the family" and, if so, whether the Court needs to take any steps in respect of these.

Provided the District Judge is satisfied s/he will issue Certificates of Entitlement to a decree and in respect of the children. The Court will then list the matter for pronouncement of Decree Nisi and any other orders (for example, that the Respondent pays the Petitioner's costs). Unless either the pronouncement of the Decree or any other Order is opposed, neither party need attend the Court Hearing when the Decree Nisi is pronounced.

It is then necessary to apply for a Decree Absolute. In a straightforward case, such an Application can be made six weeks and one day after pronouncement of the Decree Nisi. This Application requires the submission of a form and the payment of a further Court fee.

A Guide to Nullity

A decree of nullity may declare that a marriage is either void from the outset or voidable. Proceedings must be instituted within three years of the marriage and a Nullity Petition can be presented within the first year of marriage, unlike a Divorce Petition.

If it is declared to be voidable, the marriage will be treated as valid and subsisting until the Decree is obtained.

A marriage is voidable in any of the following circumstances (section 12, Matrimonial Causes Act 1973):

- There is a lack of consent;
- Failure to consummate through the incapacity of either party or the wilful refusal of the Respondent (but note that non-consummation does not apply to same sex marriages);
- The mental incapacity of either party;

- Venereal disease or pregnancy by another at the time of the marriage; or
- That an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either party after the marriage or that the Respondent is a person whose gender at the time of the marriage had become an acquired gender under the Gender Recognition Act.

A voidable marriage is a valid one until such time as a Decree Absolute of nullity is pronounced.

A marriage is deemed void if any of the following apply (section 11, Matrimonial Causes Act 1973):

- The parties are too closely related and are within the "prohibited degrees of relationship";
- Either party is under the age of 16;
- The formalities required for a valid marriage were not adhered to;
- The marriage is bigamous; or
- In the case of a polygamous marriage celebrated abroad, one of the parties was domiciled in England and Wales.

If the parties are not respectively male and female this no longer makes a marriage void (The Marriage (Same Sex Couples) Act 2013 repealed section 11(c) of the Matrimonial Causes Act 1973)

If it is decided that the marriage is void, a Decree of Nullity is not necessary as the marriage is considered never to have existed.

There are "special rules" for some of the grounds for presenting a Nullity Petition, these being contained in section 13 of the Matrimonial Causes Act 1973.

The position is as follows:

1. Where the Petition is based on certain grounds (including lack of consent and the Respondent being pregnant (at the time of marriage) by some person other than the Petitioner), the Court must be satisfied that proceedings were instituted within 3 years of the date of marriage, or leave granted for the institution of proceedings after the expiration of that time;
2. Such leave may be granted where the Court is satisfied the Petitioner has suffered from mental disorder at some time during that period and it is considered in all the circumstances that it would be just to grant such leave;
3. An application for Leave may be made more than 3 years after the date of marriage;
4. Where the Petition is based on certain grounds (including the Respondent's pregnancy by a man other than the Petitioner), it must be proved that the Petitioner was ignorant of the facts alleged at the time of marriage;

5. The Court will not grant a Decree Nisi (the first of the two Decrees), the final one being the Decree Absolute), if the Respondent satisfies the Court that:
   - The Petitioner, although aware that the parties' marriage was voidable, conducted him/herself in such a way with regard to the Respondent as to lead him/her reasonably to believe that no Petition would be issued; and
   - The grant of such a Decree would be unjust.

A Guide to Judicial Separation

An Application for a Decree of Judicial Separation can be made if one of the five facts listed for Divorce exists but the Petitioner does not need to demonstrate that the marriage has broken down irretrievably (section 17(2), MCA 1973).

The law regarding judicial separation is contained in sections 17 and 18 of the Matrimonial Causes Act 1973. Unlike Divorce, a Judicial Separation Petition may be presented within the first year of marriage.

This will apply in the following circumstances:

1. That the Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent;
2. That the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent;
3. That the Respondent has deserted the Petitioner for a continuous period of at least 2 years immediately preceding the presentation of the Petition;
4. That the parties to the marriage have lived apart for a continuous period of at least 2 years immediately preceding the presentation of the Petition and the Respondent consents to a decree being granted; or
5. That the parties to the marriage have lived apart for a continuous period of at least 5 years immediately preceding the presentation of the Petition.

Unlike with Divorce, there is only one decree of judicial separation. A decree of judicial separation operates to relieve the Petitioner of the obligation of cohabiting with the Respondent. Such a decree also affects the transmission of a deceased's estate if he or she dies intestate (that is, without having left a Will) whilst the Decree of Judicial Separation is in force. In such circumstances, any property in respect of which the deceased died intestate will devolve as if the other party to the marriage had already died.

A Guide to Civil Partnership/ Same Sex Marriage

Since the implementation of the Marriage (Same Sex Couples) Act 2013 in March 2014, couples of the same sex have been able to marry. It is important to note that:

- A new Schedule A1 has been inserted into the Domicile and Matrimonial Proceedings Act 1973 which confirms that the English and Welsh Courts have jurisdiction to hear proceedings regarding same-sex couples.
- The Brussels II Regulation only deals with Divorce of opposite sex couples. The creation of a procedure for Divorce of same sex couples is therefore left to individual countries.
- Same-sex couples who have married outside England and Wales are treated as being married in England and Wales. Therefore it is possible for parties in England and Wales who were validly married in another jurisdiction to Petition for Divorce in this jurisdiction.

Regulation 2 of the Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014 sets out the criteria which a couple must meet for the Courts in England and Wales to have jurisdiction in same sex proceedings. The regulations apply to all marriages of same sex couples (including those registered outside the UK) recognised as marriages under the Marriage (Same Sex Couples) Act 2013. Same-sex married couples will be treated in the same way as opposite sex married couples, except that religious organisations may choose whether or not to opt in to marrying same-sex couples according to their rites and marriage procedures.

It is now possible to convert a civil partnership into a same sex marriage provided the couple are registered as civil partners of each other in England and Wales. There are five conversion procedures, two being administrative, and the two-stage procedure where the signing of a conversion declaration can be followed by a ceremony at an approved secular or religious premises. The conversion itself can take place at the approved premises.

The Civil Partnership Act 2004 (“the Act”) came into force on 5 December 2005 and enabled same-sex couples to obtain legal recognition of their relationship. Couples who form a civil partnership have the legal status of ‘civil partner’. The Act provided that civil partners were to have equal treatment to married couples in a wide range of legal matters, including:

- Tax, including inheritance tax
- Employment benefits
- Most state and occupational pension benefits
- Income-related benefits, tax credits and child support
- Duty to provide reasonable maintenance for your civil partner and any children of the family
- Ability to apply for parental responsibility for your civil partner’s child
- Inheritance of a tenancy agreement

- Recognition under intestacy rules
- Access to fatal accidents compensation
- Protection from domestic violence
- Recognition for immigration and nationality purposes.

Dissolution of a Civil Partnership

Civil partnership dissolution is for same-sex couples who have formed a legally recognised civil partnership which has ended.

To obtain a civil partnership dissolution, the parties must have been in either a registered civil partnership, or recognised foreign relationship, for twelve months. To begin the dissolution process the person seeking the dissolution must complete a form, called a "Petition", alleging that the civil partnership has broken down irretrievably and given the reasons (the "facts") why s/he is applying for such a dissolution.

The facts available to establish such irretrievable breakdown are similar to those in Divorce, namely:

1. That the Respondent has behaved in such a way that the Applicant cannot reasonably be expected to live with the Respondent;
2. That:
   - The Applicant and the Respondent have lived apart for a continuous period of at least 2 years immediately preceding the making of the application ("2 years' separation), and
   - The Respondent consents to a dissolution order being made;
3. That the Applicant and the Respondent have lived apart for a continuous period of at least 5 years immediately preceding the making of the application ("5 years' separation); or
4. That the Respondent has deserted the Applicant for a continuous period of at least 2 years immediately preceding the making of the application.

Since the process is a Court based one, the person applying for the dissolution will have to provide evidence to the Court that the civil partnership has broken down irretrievably.

Once the Petition and supporting documents have been lodged with the Court, the Court will issue the Petition and, if requested so to do by the Petitioner, will arrange service (by post) of the paperwork upon the Respondent partner. Provided that the completed acknowledgement of service is returned, the Court will supply the Petitioner with a sealed copy of the document. The Petitioner then swears a statement (called an Affidavit) to which the sealed copy of the acknowledgement of service is attached. These documents are then forwarded to the Court, accompanied by an Application for a Date for Pronouncement of the first of the two Orders of dissolution, called a conditional Order.

Provided that the Judge who deals with this application is satisfied with the evidence provided by the Petitioner and the arrangements for any relevant children, s/he will certify this. The Court staff will then list the matter for the pronouncement of the conditional Order. It is not usually necessary for either party to attend the hearing when the conditional Order is pronounced.

An Application to finalise a Conditional Order can be made six weeks and one day from the date of pronouncement of the conditional Order. The final Order has the effect of dissolving the Civil Partnership.

Finances/Capital and Property

The Court has a wide discretion in relation to the division of assets on Divorce or judicial separation. It has the power to order a party to (sections 22 to 24A, MCA 1973):

- Make, or arrange, periodical payments to the other party for as long as the Court decides is necessary (sometimes known as maintenance);
- Pay a lump sum or sums to the other party;
- Make, or arrange, periodical payments for the benefit of any children (known as child maintenance (subject to certain restrictions set out in child support legislation);
- Pay a lump sum for the benefit of any children;
- Transfer specified property to the other party;
- Make a settlement of specified property (that is, set up in trust, for the benefit of the other party and/or a child of the family);
- Vary any nuptial settlement or trust made for the benefit of one of the parties;
- Sell specified property and distribute the proceeds; or
- Share a pension fund.

The Court must give first consideration to the welfare of any children under the age of 18. The factors the Court must take into consideration when deciding what orders to make are as follows (section 25, MCA 1973):

- The financial resources which each party has, or is likely to have in the foreseeable future;
- The financial needs of each party now and in the foreseeable future;
- The standard of living enjoyed by the family before the breakdown of the marriage;
- The age of the parties and the duration of the marriage;
- Any physical or mental disability of either party;
- The contributions made by each party to the welfare of the family, including any contribution by looking after the home or caring for the family, and any contributions which either is likely to make in the foreseeable future; and

- The conduct of each of the parties, if that conduct is such that it would be unjust to disregard it (it is very rare for the Court to take conduct into consideration unless it has been serious financial misconduct).

The Court has a duty, both at the time of making the original periodical payments Order and on any subsequent application to vary it, to consider imposing a "clean break" by terminating the maintenance Order immediately or on payment of a capital sum. It is only possible to challenge a final Order relating to capital in highly exceptional circumstances, specifically if, shortly after the Order was made, a totally unforeseen event takes place which completely invalidates a fundamental assumption made by the Judge when making the Order (for example, the death of one of the parties).

The starting point in respect of costs is that each party should bear their own costs, unless there has been litigation misconduct by one of the parties, in which case the other party may be able to recover the costs directly referable to that misconduct.

Current position on the Division of Assets

In White [2000] 2 FLR 981 the House of Lords reviewed the operation of section 25 of the MCA 1973 and considered the way in which the lower Courts had been applying the law. The Court's objective must be to achieve a fair outcome and, in considering how fairness is best achieved, the House of Lords established two key principles:

- There should be no bias in favour of the money-earner against the home-maker. Whatever the division of roles between the husband and wife, their contribution to the marriage, and to the family assets, should be seen as having equal value; and
- A Judge exercising his discretion pursuant to section 25 of the MCA 1973 should check his tentative views against the yardstick of equality of division and should depart from it only if, and to the extent that fairness requires it. Judges who give a spouse less than half of the matrimonial assets should be able to explain why they have "departed from equality".

In the subsequent cases of Miller/McFarlane [2006] UKHL 24, the House of Lords confirmed the two main principles set out in White, but went much further in exploring the issues facing the Courts when making financial orders on Divorce. Their Lordships agreed on three key principles justifying the redistribution of property on Divorce, disagreeing to some extent on the detailed application of those principles. When dividing assets on Divorce, Judges should consider:

- The needs (generously interpreted) generated by the relationship between the parties;
- Compensation for any financial disadvantage generated by the relationship; and
- The sharing of the fruits of the matrimonial partnership.

The Court should consider all three, being careful to avoid double counting. The ultimate objective of the Court is to give each party an equal start on the road to independent living. In Charman [2007] EWCA Civ 1791, the Court of Appeal reviewed the three principles identified in Miller/McFarlane, and discussed how to apply the principles in practice. The Court made the general point that in the event of irreconcilable conflict between the principles, the overriding criterion is fairness.

Reasons to Depart from Equality of Division

The reasons to depart from equality of division are as follows:

- Shortness of marriage (Miller v Miller [2006]);
- Inheritance (only in cases where there is a surplus of assets required to meet the parties' reasonable needs);
- Illiquidity (difficulties in borrowing and the nature of assets may justify a departure from equality);
- Special contribution (to be taken into account, such a contribution must be wholly exceptional);
- Wealth generated prior to the marriage and after separation (assets brought into the marriage or acquired or created by one party after separation may qualify as non-matrimonial property). This factor will only carry weight in cases where the assets available for distribution exceed the parties' reasonable needs and where the non-matrimonial property can be clearly identified;
- Needs exceed the assets available for distribution (where most of the capital is required to house the wife and children). In such cases, equality may be deferred by giving the party who receives less an interest realisable at a later date (for example, a share in the family home secured by a charge on the property realisable when the youngest child completes full-time education); or
- Due to a special contribution made by one of the parties' as the Court found in In Cooper-Hohn v Hohn [2014] EWHC 4122 (Fam) where it was held that a significant departure from equality was justified because of the husband's special contribution in building up vast wealth and "financial genius"

Maintenance

As an interim measure, either party can apply at any time until the final hearing for maintenance pending suit (section 22 MCA 1973). Since the insertion of section 22 ZA MCA 1973 by the Legal Aid, Sentencing and Punishment of Offenders Act 2013, the Court can include provision for legal costs as part of a monthly maintenance award (legal services payment Order).

The Court can order either party to the marriage to make periodical payments to the other and to provide that these payments are secured (section 23(1), MCA 1973). An Order, which can be backdated to the date of the application, will terminate by operation of law on either:

- The recipient's remarriage;
- The death of either party; or
- The making of a further Court Order.

The Court has discretion to fix a term for the making of periodical payments, and in certain circumstances, to bar the recipient from applying to extend the term (section 28(1), MCA 1973).

The Courts recognise that both parties require an income. Therefore, it is common for periodical payments to be awarded, particularly to the person who is the children's primary carer and whose earning capacity is temporarily or permanently reduced by childcare obligations.

There have been a number of recent cases regarding Spousal Maintenance and Capitalisation, with Wright v Wright [2015] EWCA Civ 201, SS v NS (Spousal Maintenance) [2014] EWHC 4183 (fam) and H v W [2013] EWHC 4105 (fam) in particular highlighting:

1. A Spousal Maintenance claim is usually based on needs with compensation and sharing only applying in "exceptional circumstances", although the criteria for meeting exceptional is not defined.
2. Non relationship needs will usually only be met where significant hardship will be alleviated
3. An extendable maintenance term is favoured, rather than a Joint Lives Order as the term will favour the poorer party.
4. The marital standard of living is relevant but not decisive.
5. Bonuses will be taken into account, although any award capped and providing for more "luxurious needs".
6. Spousal Maintenance is variable and can be terminated (JL v SL(No3)[2015] EWHC 555 (fam).
7. The Duxbury calculations are widely accepted as a useful tool.

The amount of any Order is assessed in accordance with the section 25 MCA 1973 criteria after consideration has first been given to the welfare of any minor children of the family. Each case will be decided on its own facts and circumstances, balancing the needs of the parties and the income resources available. McFarlane illustrated that, in cases where there is surplus income, the Courts can order maintenance to enable one party to build up capital for the future.

Ancillary Relief Proceedings

In relation to married couples, the Court's ability to hear a financial claim depends on whether or not it has jurisdiction to hear a Petition for Divorce, nullity or judicial separation (section 24, MCA 1973). "Ancillary relief" is the term used by lawyers to describe all orders of a financial or property nature or that relate to pensions that a Court can make following Divorce, judicial separation, nullity proceedings and civil partnership dissolution.

Such proceedings are now very much Court-controlled. The Court will impose timetables for compliance with its orders. The parties will usually be required to personally attend all Court hearings. There may well be costs consequences for failing to adhere to timetables, obeying Court orders or failing to attend hearings.

An ancillary relief application is commenced by filing with the Court an application in Form A, accompanied by the fee payable. The Court issues the application, usually within a few days of receiving it. The Court then sends each party a sealed copy of the Form A, accompanied by both a Notice of First Appointment (Form C) and a Notice of Response to First Appointment (Form G).

The Form C is the most important of these three documents because:

1. It contains details of the date and time of the First Appointment (that will be in 12 to 16 weeks' time);
2. It contains the timetable for the case up to the initial hearing date of it (the "First Appointment"). This timetable provides the dates for the parties to file with the Court and to exchange with each other:
   - a Statement of Information about their financial circumstances (known as a Form E). This must be filed no later than 35 days before the First Appointment;
   - a concise statement of the apparent issues between the parties;
   - chronology;
   - either a questionnaire setting out the further information and documents each Party requires from the other, or, alternatively, a statement that no such information or documents are required;
   - a completed Notice in Form G, stating whether the party will be in a position at the First Appointment to treat that hearing as a Financial Dispute Resolution hearing ("FDR").
3. The Form C also provides that an estimate in Form H of any legal costs incurred by the party be produced to the Court at the First Appointment and a copy supplied to the other party.

The First Appointment

The First Appointment is a Directions Hearing that has to be attended personally by both parties unless the Court orders otherwise. The objectives of the First Appointment are to define the issues in dispute between the parties and to save costs. The Hearing takes place before a "District Judge". He/she is required to determine:

1. the extent to which any questionnaires served by the parties seeking further information must be answered; and
2. what documents must be produced and to give Directions for the production of such further documents as are necessary.

He/she must also give directions about such matters as:

- the valuation of assets, most usually the matrimonial home;
- the obtaining and exchanging of expert evidence, most usually with regard to the value of pension assets, if required;
- the evidence to be produced by each party; and
- the preparation of further chronologies or schedules (where appropriate).

It is possible for the Court to treat the First Appointment as a Financial Dispute Resolution appointment (FDR). It may be remembered that the Form G can be completed accordingly. However, experience is that few First Appointments are treated as FDRs. The reasons for this include:

1. that there are usually outstanding issues regarding the valuation of the parties' assets, particularly the former matrimonial home;
2. the replies to the parties' respective questionnaires and requests for documentation are required before negotiations can take place;
3. an insufficiency of Court time. The majority of Courts list First Appointments with a time estimate of 30 minutes and FDR's for one hour, this with a requirement that the parties and their advisors attend an hour before the actual FDR for the purposes of negotiations and in order to narrow the issues between them.

FDR

The second of the three most likely Court Hearings in respect of an ancillary relief application is the Financial Dispute Resolution ("FDR").

1. The FDR appointment must be treated as a meeting held for the purpose of discussion and negotiation.
2. Both parties must personally attend the FDR unless the Court orders otherwise.
3. The Judge or District Judge hearing the FDR appointment must have no further involvement in the case, other than to conduct any further FDR appointment or to make a consent Order if agreement is reached, or to make a further Directions Order.
4. Not later than 7 days before the FDR appointment, the Applicant for ancillary relief must file with the Court details of all offers, proposals and the responses to these.

5. This includes any offers, proposals or responses that are made wholly or partly "without prejudice" (that is, usually privileged from disclosure to the Court).
6. At the conclusion of the FDR appointment, any documents filed with the Court under point 4 above and any filed documents referring to them must be returned to the party filing them at his/her request and not retained on the Court file.
7. Parties attending the FDR appointment must use their best endeavors to reach agreement on the matters in issue between them.
8. The FDR appointment may be adjourned from time to time.
9. At the conclusion of the FDR appointment, the Court may make an appropriate Consent Order (if the parties have agreed terms of settlement) but must otherwise give directions for the future course of proceedings, including, where appropriate, the filing of evidence and fixing a final hearing date.

Experience has been that few cases settle at an FDR appointment. There are a number of reasons for this including:

- The fact that some cases simply seem incapable of being settled by agreement. They require judicial determination;
- In other cases the observations made by the Judge or District Judge with regard to the bases for settlement of a case do not find favour with one, other or even both of the parties; and
- Some parties, quite understandably, want more time to consider decisions that, once made, could have profound repercussions for their futures.

The parties can continue to negotiate up to the time of their Final Hearing, if there is one.

The Final Hearing

"Final hearings" probably only occur in some 10% of cases involving an application for ancillary relief. If a final hearing is necessary, in addition to listing the matter for such, the Judge dealing with the case is likely to make what is known as an "Order for Directions".

Typically such an Order will require the parties to:

1. File (with the Court) and exchange (with each other) what are termed "narrative" or "Section 25" (of the Matrimonial Causes Act 1973) statements. Provide updating of the financial disclosure previously made by them, whether in their respective Financial Statements (Forms E) or subsequently. It should be borne in mind that a period of 9 to 12 months may have elapsed between the filing and exchange of Forms E and the date of the final hearing; and
2. Produce up to date valuations of assets such as the former matrimonial home, business interests, pension funds and similar items.

At a final Hearing, the parties will each give evidence on oath that is subject to cross-examination. There is also likely to be a detailed consideration of the documentation produced by both parties. Generally, both parties' cases will be presented by Barristers (or "Counsel") who will both represent their respective clients and make representations on behalf of them. Depending upon matters such as the complexity of the case, judgment may not be given at the conclusion of the Hearing but "reserved" to be given at some subsequent date.

As a rough guide, the costs incurred by the stage of a final Hearing will be approximately twice what they were when the Financial Dispute Resolution appointment took place. As the result of changes to the rules relating to costs that were introduced on 3 April 2006, it is now extremely unlikely that either party will be ordered to pay the other's legal costs. The general rule is that each party is responsible for his/her own costs of ancillary relief proceedings.

An Introduction to the Calculation of Child Maintenance Payments by the CMS

The legal requirement for parents to support their children financially continues after Divorce or a separation. Non-resident parents must provide payment to the parent with care (the test being the person who receives the Child Benefit where relevant) in respect of children who are under the age of 16 or under the age of 20 and in full-time secondary education. For parents who cannot agree maintenance arrangements and who are both resident in England and Wales, there is a complex set of laws and regulations commencing with the Child Support Act 1991 and a series of amending statutes and regulations. These have resulted in three child support regimes, the most recent of which is the Child Maintenance and Other Payments Act 2008 regime, referred to as the gross income scheme, which now applies to all new child maintenance applications.

Since 25th November 2013, all new cases have been administered by the Child Maintenance Service (CMS) which replaced the Child Support Agency (CSA). The CSA therefore no longer takes on new cases and existing cases will gradually be closed, meaning parents will have to re-apply under the new scheme. If a `family based agreement` can be reached no fee will be payable, An application for an assessment or calculation by the CMS will cost £20. Either parent may elect `direct pay` or payment to the other parent in which case no further fees are payable. If the CMS collects the maintenance the receiving parent will be charged 4% and the paying parent 20%. There are new charges for enforcement.

The CMS calculates the payments using a fixed statutory formula which works on the basis of the paying parent's yearly gross income using information supplied by HM Revenue & Customs or information about benefits received by unemployed parents.

Those who earn:
£100 or less gross per week pay £5 per week.
£100.01 to £199.99 gross per week will pay a reduced rate to that set out below.

Weekly gross income over £200 and up to £800 per week:
- 12% of gross income for one child;
- 16% of gross income for two children;
- 19% of gross income for three or more children.

Weekly gross income over £800 and up to £3,000 per week:
- 9% of gross income for one child;
- 12% of gross income for two children;
- 15% of gross income for three or more children.

If the non-resident parent's gross weekly income exceeds £3,000, the parent with care can apply to the Court for increased maintenance.

The Court can also make Orders for the payment of school fees, maintenance for step-children and where the child is over the child support age but has a disability which requires extra financial support.

The figure can be adjusted to take into account the number of nights in excess of 52 a year a child stays with the non-resident parent. Additionally, if the non-resident parent has other children living with them the paying parent will be entitled to a reduction of 11%, 14% or 16%.

The income of the paying parent will be his/her historic income or the income declared to HMRC in the latest available tax year. The CMS has wide powers to obtain information from HMRC, Banks and Building Societies without a Court Order. Bonuses, commission and benefits in kind are taken into account in full, however allowable deductions are ignored with the exception of pension contributions.

Current income may be used if historic income is not available or the difference is at least 25%, including any bonus received in the last 12 months, in which case the paying parent may be placed under a duty to report any change in circumstances. Maintenance will be reviewed, it is presumed annually, with updated information being requested 30 days beforehand. A criminal sanction can be imposed if breached.

There is an express power for the CMS to estimate income based on average salaries for particular occupations where historic income is nil or unavailable.

Where the receiving parent makes a specific application for variation to take into account property income exceeding £2500under Part 3 ITTOIA, savings and investment income under Part 4 or miscellaneous income under Part 5 will form part of the paying parent`s assessable income. The figures declared to HMRC will be used unless there is a specific exemption. There are now limited circumstances where an application for variation can be made. The `Lifestyle Inconsistent with Declared Income` variation no longer applies.

Any appeal against a decision is sent to the CMS within 1 month of the decision, extendable by a further 12 months.

The Court can also Order lump sum payments or the settlement of property for the benefit of a child under Schedule 1 of the CA 1989.

An Introduction to Orders Relating to Children

Jurisdiction in children cases is governed by the Brussels II Regulation and the Family Law Act 1986. The Court can use its case management powers to look at:

- The child's habitual residence, if not the child's physical presence in England and Wales.
- The parents' connections with the competing jurisdictions.
- The child's welfare.
- The ease with which the parties could participate in the process.
- The range of orders available in the competing jurisdictions.

The Court is required to have regard to Section 1 of the Children Act 1989, namely that the child's welfare shall be the Court's paramount consideration, when the Court determines any question with regard to either the upbringing of a child or the administration of a child's property or the application of any income arising from it. The 'Welfare Checklist' consists of:

1. The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
2. His physical, emotional and educational needs;
3. The likely effect on him of any change in his circumstances;
4. His age, sex, background and any characteristics of his which the Court considers relevant;
5. Any harm which he has suffered or is at risk of suffering;
6. How capable each of his parents and any other person in relation to whom the Court considers the question to be relevant, is of meeting his needs; and
7. The range of powers available to the Court under the Children Act in the proceedings in question.

The Orders the Court is able to make under Section 8 of the Children Act (limited to those set out in section 10 CA 1989) are as follows:

1. Child Arrangements Order (CAO) – setting out where a child is to reside, how much contact a child is to have with the other parent – incorporating what were previously known as Residence and Contact orders. The Court may now Order that the child lives with one or both parents or spends time with a parent or someone named in the Order. Where the Order provides for the child to live with both parents in their respective homes, time in each home will not necessarily be equal. If a parent is in breach of a CAO Order, the other parent may apply for an enforcement Order for breach of which there are penalties including a requirement to undertake unpaid work.
2. Prohibited steps Order – an Order that no step which could be taken by a parent in meeting his parental responsibility for a child and which is of a kind specified in the Order, shall be taken by any person without the Court's consent.
3. Specific issue Order – an Order giving Directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

The wishes of the child may be taken into consideration if they are of sufficient age and understanding. The Court must give consideration to the "delay" and "no Order" principles under sections 1(2) and 1(5) CA 1989 respectively. These state that any delay in proceedings is likely to be prejudicial to the welfare of the child and that the Court should only make an Order if it is better for the child than if no Order were made.

The Children and Families Act 2014 (section 11) has inserted into section 1 of the Children Act 1989, subsections (2A), (2B) and (3). This addition creates a presumption that the involvement of a parent in a child's life will further the child's welfare where there is no evidence to the contrary. In all cases which come before the Court, safeguarding checks are undertaken by CAFCASS (Child & Family Court Advisory & Support Service). Where there are allegations of or proven domestic violence, contact with a child may be limited to indirect means such as cards and letters, or may be supervised.

Parental responsibility is defined in Section 3 of the Children Act as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property".

Who has Parental Responsibility?

1. The Mother.
2. The Father if:
   (1) the child's parents were married to each other at the time of the child's birth (Section 2(1) of the Children Act 1989);
   (2) he subsequently marries the child's mother;
   (3) he has acquired it (and has not ceased to have it) in accordance with the provisions of the Act (Section 2(2) of the Children Act 1989) by becoming registered as the child's Father, the birth being registered after 1 December 2003 (Section 111 of the Adoption and Children Act 2002); by the Mother and Father entering into a written "Parental Responsibility Agreement" or by a Court making a "Parental Responsibility Order" in his favour in respect of the child.
3. A Step-parent if they have signed a Parental Responsibility agreement or obtained a Parental Responsibility Order.
4. In specified circumstances where relevant the Local Authority where a Care Order is in force, Special Guardian, Adopter, those holding a CAO providing that a child is to live with a named person.

The concept of parental responsibility is defined in section 3 of the CA 1989 as "all the rights, duties, powers, responsibilities, and authority that by law a parent of a child has in relation to the child and his property". The fact that both parents retain parental responsibility gives them, in theory, an equal say in major decisions in the child's life (for example, schooling, religious upbringing and medical treatment). Day-to-day decisions will usually be made by the parent with whom the child resides for the majority of the time. It is possible for more than one person to have parental responsibility for a child at any one time.

An Introduction to International Child Abduction

England is a party to the Hague Convention which sets out strict rules on the wrongful removal of a child from its place "of habitual residence", or the wrongful "retention" of a child away from its place of habitual residence, in breach of the other parent's "custody rights". The Convention provides that the Courts of signatory states will generally return an abducted child to the country it came from, although there is a limited discretion in certain circumstances to allow the child to stay in the new country.

Where the child's country of habitual residence is not a Convention signatory, the English Courts will be guided by whether or not the return would be in the child's best interests taking into account such factors as nationality, language, race and how familiar the child is with England. An English parent trying to secure the return of a child from a country which is not a Convention signatory could face substantial difficulties.
The Hague Convention sets out strict rules about what constitutes abduction. It occurs where either:

- A parent takes a child out of the home country without the other parent's permission; or
- The child has been taken out of the home country with the other parent's permission, but is not returned as agreed.

The "habitual residence" of the child is the country where the child lives on a day-to-day basis. Abduction will not result in a change in the habitual residence of the child.

Abduction requires the violation of "custody rights", involving the right to help make decisions about the care of the child, particularly in relation to determining where the child is to live. In England and Wales, the question of whether a parent has "parental responsibility" under the CA 1989 is relevant.

Defences which may prevent the return of a child to a home country include:

- Clear evidence of consent or acquiescence to the removal of the child; and
- Where there is a real and substantial risk that the return of the child would expose them to physical or psychological harm or otherwise place the child in an intolerable situation.

If a parent seeking a child's return under the Convention applies less than one year after the abduction, the Court in the new country must Order the return of the child unless one of these defences has been established. If the application was made over a year after the abduction, the new country must return the child unless one of the defences has been established or it is demonstrated that the child is now settled in the new country.

The Court may refuse to order the return of the child and in January 2015 the Court of Appeal set out a two-part test for the assessment of a child's objections to returning. At the "gateway stage" it is necessary to establish that the child objects to a return and is of an age and degree of maturity at which it is appropriate to take account of his or her views. If established the Court will then proceed to the discretionary stage of assessing whether the child's objections to a return should prevail ((Re MC Republic of Ireland) (child's objections) (Joinder of children as parties to appeal) [2015] EWCA Civ 26).

The Brussels II Regulation places emphasis on the views of the children but this defence is not often upheld due to the possibility that the child's views have been influenced by the adult with whom they are living. Since the Supreme Court decision in Re LC (Children) (No 2), the child's state of mind about his or her integration in a family and social environment has become an important test for habitual residence in a particular country. In Re S (A child) (Habitual Residence and child's objections (Brazil) [2015] EWCA Civ 2I the Court of Appeal allowed the mother's appeal in relation to the child's habitual residence but declined to order the child's summary return, relying on the 12 year old child's objections to a return and the Judge's exercise of discretion.

Leave to remove/applications to take a child out of the jurisdiction

A parent who shares parental responsibility with another parent cannot remove a child from the jurisdiction without written consent of that person or permission of the Court.

Applications for leave to remove are governed by the welfare principle, above. The Courts have until recently endorsed the approach taken in Payne [2001] 1 FLR 1052 where, as well as considering the welfare of the child and whether the application was genuine, the Court looked at the impact of refusing the application on the Mother. The decision in MK v CK [2011] EWCA Civ 793 recognised that where shared parenting exists, the role of each parent in the child's life may be "equally important".

An Introduction to Surrogacy and Adoption

The key legislation is:

- The Surrogacy Arrangements Act 1985 (SSA 1985)
- Adoption & Children Act 2002 (ACA 2002)
- The Human Fertilisation and Embryology Act 2008 (HFEA 2008)
- The Adoption Act 1976
- The Children & Families Act 2014 (CFA 2014)

Surrogacy agreements are currently unenforceable under English law (section 1A, SSA 1985). In addition, there are a number of criminal offences in relation to surrogacy, including advertising for a surrogate mother (section 3, SSA 1985). The legal consequences are governed by sections 33 to 42 of HFEA 2008. The surrogate is the legal Mother of the child and any Husband of hers the legal Father. If she is in a civil partnership, her partner will be a legal parent. If the woman is unmarried at the time of the surrogacy, the intended Father can be named as the legal father.

Once the child is born, legal parenthood can be transferred from the surrogate (and her husband or partner) to the intended parents. At present, only couples who are married (heterosexual or same-sex), or in civil partnerships or long-term cohabitation can apply to become the legal parents of a surrogate child. The intended parents have six months from the birth of the child to apply for a Parental Order.

The Court must be satisfied that the surrogate Mother and any other deemed legal parent give their full and informed consent, that no money or benefits other than "reasonable expenses" have been transferred to anyone involved in the surrogacy arrangement. In Re P-M (Parental Order: Payments to Surrogacy Agency) [2013] EWHC 2328 (Fam) [2014] (FLR 725)) the Judge authorised payments over and above expenses incurred by the surrogate.

With international surrogacy arrangements, the Courts have confirmed that English law takes precedence. Foreign Court Orders and birth certificates will not be recognised. In Re X (Children) (Parental Order: Foreign Surrogacy) [2008] EWHC 3030 (Fam) the Court granted a parental Order despite the parents' payment to a surrogate. This was primarily because the welfare of the child demanded it and the parents had not exploited the surrogate. Similar considerations were applied in Re G and M (Parental Orders) [2014] EWHC 1561 (Fam) to make parental orders with respect to twins born to a surrogate in the US State of Iowa. The law of Iowa required the genetic fathers to adopt their civil partner's baby but this was in breach of section 83 of the Adoption and Children Act 2002. The Judge decided the fathers had acted in good faith and she made parental orders to ensure "that each child's lifelong welfare needs can only be met by their legal relationship with the Applicants being on the securest footing possible".

Adoption

Married people, civil partners, cohabiting couples and individuals can all adopt under English law. Parental consent is required for an adoption (section 19, ACA 2002) but this can be dispensed with through section 52 of the ACA 2002 by the Court making a placement Order, whilst looking at (Re B (A Child) (Care Proceedings Threshold Criteria) [2013] UKSC 33):

- The child's interests. It is in the child's interests to be brought up by their natural parents (however, this must be countered with any concerns relating to the child's welfare).
- Every option which is available.
- The natural parents' ability to discharge their responsibilities towards the child, with any help or support.

Once a Placement Order is granted or consent to adoption is given, a period of prospective adoption is required before an application for a final Adoption Order can be made. If the child was placed with Applicants by an adoption agency or High Court Order, or the Applicant is a parent of the child, the child must have had his home with the Applicants for the ten weeks preceding the application. The period for which the child must have had his home with the Applicants is longer in the case of the partner of a parent of the child (six months), local authority foster parents (one year) or any other individual (three years or more).

Following an application, the Court has to consider a number of factors in determining whether to grant an Adoption Order:

- The primary consideration is the child's welfare throughout his life. The factors outlined in section 1(4) of the ACA 2002 include the child's needs, any harm they are at risk of suffering and any relationship they have with the birth family.
- The Court must also consider the delay principle (section 1(3), ACA 2002) (that is, whether any delay would jeopardise the child's welfare).
- The requirement for the Court to give due consideration to the child's religious, racial, cultural and linguistic background (section 1(5), ACA 2002) has been repealed by the CFA 2014.

Generally, the effect of an Adoption Order is to treat the child as if they were born to the adopter(s) (section 67, ACA 2002). Contact with the birth parents may be granted through a contact Order, but there is no automatic right to it. The adopted child may choose to make contact with their birth parents once they are 18 years of age.

An Introduction to Alternative Dispute Resolution

The Family Procedure Rules 2010 contain an "overriding objective" at Part 1 requiring the Court to deal with matters justly and the parties to assist the Court in achieving this aim. This includes saving expense and dealing with cases expeditiously. The pre-application protocol has now been reinforced by section 10 of the Children and Families Act 2014. Costs may be awarded against a party who refuses to negotiate or consider settlement.

Collaborative law

Collaborative law is a process whereby the parties and their lawyers negotiate face to face through a series of meetings. The lawyers involved sign an agreement stating they will not continue to represent the parties if the collaborative approach fails. Christian Abletshauser is trained as a collaborative lawyer.

Mediation

Mediation is a form of negotiation using a neutral third party to assist in identifying and narrowing the issues between the parties. Solicitors provide any legal advice. Practice Direction 3A of the FPR 2010, and the amendments to the Practice Direction, requires parties to attend a Mediation Information and Assessment Meeting (MIAM) before issuing financial and Children Act proceedings (with certain exceptions, such as emergency applications or where there has been a failed mediation in the last four months). Proceedings can be adjourned until parties have attended a MIAM.

Arbitration

Arbitration was introduced in February 2012. It is governed by the provisions of the Arbitration Act 1996 in conjunction with the rules of the Institute of Family Law Arbitrators (IFLA). The process is similar to a final hearing in a Court with the arbitrator presiding and making a final award. The IFLA Scheme covers most financial disputes, but not disputes about children. An arbitration award must be made within a reasonable time after the proceedings have been concluded. The parties must agree to be bound by the arbitral award pursuant to the Form ARB1, in which they must confirm that they have sought advice and understand the implications of the agreement to arbitrate and that they have read the rules of the Scheme and will abide by them. In the case of S v S [2014] EWHC 7 (Fam) the Court made certain important findings in relation to arbitration awards, in particular that:

- The signing of the ARB1 is of importance in binding the parties to the agreement reached and that the Order of the Court should mirror the arbitral award in the absence of "compelling countervailing factors".
- Where consent orders are based on decisions reached under an arbitration agreement a Judge will check the Order to ensure that nothing has gone wrong within the process which would impair the award, the Order gives effect to the agreement reached and it is workable.

- Where a party seeks to argue that an award should not be upheld and this lacks merit the Court may make an Order reflecting the terms of the arbitral award and provide for its enforcement.

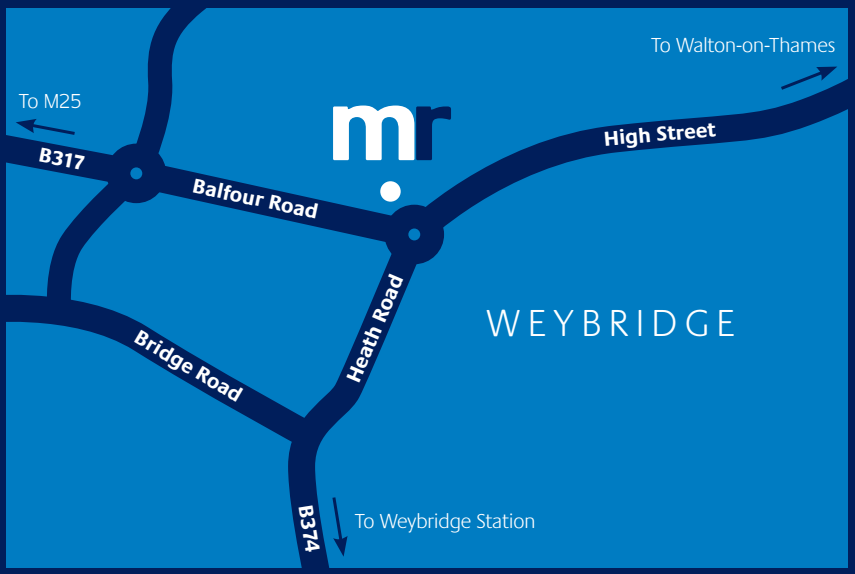
Private financial dispute resolution (FDR)

The parties may opt for a private financial dispute resolution (FDR) hearing. These are "Judge-mediated" meetings at which the "Judge" will make a recommendation as to the likely range of outcomes if the parties progress their financial dispute to a final hearing. Private judging is normally offered by senior practitioners, many of whom have experience of sitting as Deputy Judges in Family Courts. The intention is to focus the minds of the parties and encourage them towards settlement.

Enforceability

Mediation, collaborative law and private FDR hearings are not binding. If the parties reach agreement, they must submit consent applications to the Court which must judge the fairness of the agreed terms in the light of the parties' summary of their circumstances before sealing the Court Order. Awards are, however, often upheld.

(Updated 14.07.15)



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