

Relationship problems, divorce and separation

Points to be considered

Hancock Quins have several leaflets relating to family problems. Here we try to answer some of the most frequently asked questions.

I am a victim of violence what can I do?

If your partner threatens or assaults you, you may be able to apply for an injunction to stop your partner from continuing to do so. If the children are at risk an injunction can be granted to protect them too. In many cases, an order can be obtained requiring your partner or spouse to leave the home for a period if this is needed to ensure your protection. An injunction can be obtained even if you are not married to your partner.

What can I do to ensure that my partner cannot take my child from my care?

If you are concerned that your current or ex-partner intends to snatch your child we can advise you of the court orders you can obtain from the court very urgently to either stop them taking the child or to ensure that your child is returned to you.

What do I do if social services apply to have my children put into care?

There may be many reasons why social services can ask a court to make a care order and sometimes this could result in your children being taken away from you. We can represent you and advise you on the court process and ensure that your arguments are fully heard before the court, as there are many options that the courts can choose without putting your children into care. We can ask a court to consider these options on your behalf. You must seek legal advice immediately if social services are considering any court proceedings.

I am in financial difficulties, am I entitled to any benefit?

There are many types of benefit that you may be entitled to especially if you have been left on your own with your children with little or no financial support. These benefits include: -

- Income Support
- Working Tax Credit/Child Tax Credit
- Job Seekers Allowance
- Housing Benefit



“You may wish just to talk things over.”

The Child Support Agency can also be contacted to help find your ex-partner and obtain maintenance payments for your children. We can also advise on whether you can claim maintenance from your ex-partner for yourself.

Can I just talk matters over with a solicitor?

If you have problems with your marriage or relationship then you may wish to talk matters over with Hancock Quins. Initially this may just be for general advice to find out exactly what your position is. If your marriage or relationship does unfortunately break up, you will then be able to know exactly where you stand.

Discussing your problems with Hancock Quins does not mean that you have to separate as a result. We can offer general advice and assistance including advising you on experts who may be able to help you with your difficulties e.g. Relate Counsellors, or mediation services.



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Relationship problems, divorce and separation continued

However if you do decide that you wish to separate then you may wish to consider some of the following.

What does a divorce involve?

Firstly, we have to consider with you whether or not you have the ground for divorce; that your marriage has irrevocably broken down. The grounds for divorce and evidence required to show irretrievable breakdown are: -

- Your spouse has committed adultery and you find it intolerable to live with them
- Your spouse has behaved in such a way that you cannot reasonably be expected to live with him/her
- Your spouse has deserted you for more than two years
- You've been separated for two years and both consent to a divorce
- You've been separated for five years when no consent from your spouse is necessary

In order to start divorce proceedings you normally need to have been married for one year. A divorce petition and other documents in support need to be prepared and sent to the court. We will then help you through the divorce proceedings which will include obtaining your decree absolute which brings your marriage to an end.

How do I deal with matrimonial finances?

While divorce proceedings are continuing we will advise you fully about your financial entitlements and commitments. We will try to negotiate with your spouse's solicitor to reach a settlement on your behalf, however, if this is not possible we can proceed to the court and obtain a final order dealing with your finances.

What happens to the children?

If it is at all possible the courts prefer parents to try to solve any problems concerning contact with the children and who they will live with, without going to court. We will advise you in trying to solve problems that you may be having with your ex-partner about your children. If it is not possible to reach an agreement concerning the children with your ex-partner then again we would be able to advise you on the necessary court proceedings.

What rights do I have as a co-habitee?

Co-habitees do not have the same rights as married couples. However it may be that you still have a claim relating to your partner's home even if it is in your partner's sole name. You do not automatically have a right to maintenance for yourself, but you may have a right for your children. If you are the father of any children of your cohabiting relationship you may not have legal parental responsibility for them, and this could have a number of consequences after separation. You should obtain clear advice at the earliest stage about your position. If you think there are any issues about property or the children please seek professional advice from Hancock Quins as early as possible so that we can deal with the legal implications of your situation.

What will it cost?

You may be eligible for legal aid (also known as "public funding") depending on your financial circumstances and we will advise you concerning this. In some circumstances legal aid may be repayable at the end of your case, out of any settlement you achieve. If you are not eligible for legal aid then we can provide you with an estimate of the costs in your case and you can make arrangements for payment by instalments if you wish. The cost of legal fees will always be considered in any final court settlement.

Costs vary greatly in family cases, and we can give you initial advice as to measures you can consider to try to limit or reduce your legal expenses as much as possible. As your case progresses we will keep you informed of the costs being incurred, so that you are not surprised by this information at a late stage of the proceedings.



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