

# FAMILY LAW

## DIVORCE, CHILDREN & FINANCES



Legal Services  
Conveyancing  
Criminal Defence & Motoring Offences  
**Family Law**  
Housing  
Wills, Probate & Estate Planning  
Accident Compensation Claims



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# Norrie Waite & Slater

Norrie Waite & Slater has a team of highly experienced family solicitors based at our branches in Sheffield, Rotherham and Killamarsh.

We offer confidential expert legal advice and sympathetic support, whatever difficulties you may be experiencing.

Whatever your financial circumstances, we can help. We offer a free initial consultation for all new clients and we can provide legal aid to cover your legal fees in some cases.

We offer advice on all areas of family law including:

- Divorce
- Separation (married and unmarried couples)
- Child contact, child residence and child maintenance
- Financial settlements
- Domestic abuse & Harassment
- Unmarried fathers' rights and parental responsibility
- Pre-nuptial & post-nuptial agreements
- Civil partnerships
- Change of name
- Injunctions

Our team of family solicitors includes Resolution Accredited Specialists, collaboratively trained lawyers and members of the Law Society's Children Panel.

Norrie Waite & Slater

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# Divorce

## ***How long do I have to be married before I can get a divorce?***

In English law you need to have been married for at least one year before you can apply for a divorce.

## ***What are the grounds for divorce?***

There is only one ground for divorce which is that the marriage has broken down irretrievably. The law requires that this is shown by stating one of the following five reasons as the cause of the breakdown:

- Adultery
- Unreasonable behaviour
- Two years separation - with consent for the divorce
- Five years separation - consent for divorce not required
- Desertion for a period of at least two years

You cannot simply state 'irreconcilable differences' or the fact that you have drifted apart to obtain a divorce. Your solicitor will help you to match your circumstances to the most appropriate reason.

## ***Will I have to go to Court?***

In many cases you do not have to go to Court in person. If the divorce is uncontested and you are able to reach agreement through your solicitors on finances and children, then a formal Court hearing is unlikely to be necessary. It is possible to conclude the whole process as a paper exercise without ever seeing a Judge.

## ***How long does a divorce take?***

For an uncontested divorce with no complications it usually takes between 4 and 6 months for a divorce to be finalised.

If the divorce is contested or agreement cannot be reached on related matters, then the process can take up to 12 months or possibly even longer.

## ***Does it make any difference whose fault the divorce is?***

In the vast majority of cases, it will not have any impact on the outcome of the divorce, financial settlement or arrangements for children. The Courts are not in the business of punishing people for things such as adultery.

Only in cases of extreme behaviour such as violence to a spouse or children would it possibly affect the outcome.

*A specialist divorce lawyer will guide you through every step of the divorce process.*

## ***How much does a divorce cost?***

Divorce solicitors charge fees on an hourly basis so the cost of your divorce will depend on the number and complexity of the issues to be resolved.

Your first consultation is free of charge so that we can assess your circumstances and give you an estimate of costs.

# Financial Settlements on Divorce

When a couple divorce, one of the biggest issues is how to divide their finances and property. Our experienced divorce solicitors will work on your behalf to achieve the best possible settlement available to you.

The negotiation of a financial settlement will involve taking into account many factors, including:

- The financial and other needs of any children
- The current earnings of both parties
- The potential future earning capacity of both parties
- Length of the marriage
- Standard of living enjoyed during the marriage and income needs
- Contributions that both parties have made to the marriage, both financial and otherwise – including looking after the house or caring for children
- Assets of each party, including accrued pension values

All financial settlements are different as they are based on the circumstances of the individuals involved. There are few hard and fast rules about who will get what.



## ***Reaching an agreement on finances***

The ideal solution is for an amicable financial agreement to be reached by negotiation between both parties and their solicitors. This will help to minimise legal fees and avoid the necessity of going to Court to reach a settlement.

Our solicitors will work hard to present your case in the most favourable light to optimise your financial settlement, whether this be through negotiations or by pursuing an application through the Court.

## ***What if we can't agree?***

If a financial settlement cannot be reached then an application will be made to go to Court to find a resolution.

## ***Who will pay the legal fees?***

Normally both parties to a divorce will have their own solicitor and each will be responsible for paying their resulting fees.

In some cases, it can be negotiated as part of the financial settlement that one person will pay some or all of the other's legal fees.

The Court rarely imposes costs orders/sanctions in family proceedings. It will only do so where it considers a party to be conducting themselves unreasonably.



# Unmarried Couples

Many couples choose to live together without getting married. Married couples (or civil partnerships for same sex couples) are afforded a number of legal rights under English law which are not extended to cohabiting unmarried couples.

If you are unmarried and going through a separation, we can help. Whether you have a dispute over property, finances or children, we can offer expert advice and help you to resolve your issue.

*You may need a solicitor to ensure that you receive a fair share of any property you own.*

For many couples, the main asset they own is the family home. It is not uncommon for ownership of a home to be in the sole name of one partner, although often the other partner will have contributed financially to that home either by means of deposit, mortgage payments or paying for improvements.

In these circumstances, you may need solicitor representation to negotiate a settlement with your ex-partner. If necessary, Court proceedings may need to be issued for you to establish a proper share of the property.



If you have a dispute over your children, for example, about who the child will live with or when the child will have contact with the non-resident parent, we can help.

More information is available in the children section of this brochure or contact us for a free consultation.

# Children

At a time of family breakdown, the needs of any children involved are of the highest importance. Our experienced family solicitors will work with you to ensure that your children come through the process as unscathed as possible and with the most stable arrangements for residence and contact achievable.

The law in relation to children is clearly focused on what is in their best interests, as distinct from the interests of the parents.

In practice, the law prefers voluntary agreements between parents rather than Court imposed orders as it feels that voluntary agreements are more likely to succeed in the long run. The Court will only usually become involved if the parents are unable to reach a suitable compromise. If a case does go to Court, then the Court can impose a 'residence order' or a 'contact order' which set out who the child will live with and when they will have contact with the other parent.



## ***Child residence***

What is commonly referred to as 'child custody' generally means 'child residence' or with whom the child will live. It is of overriding importance for any children involved to have a stable and safe place to live.

In most cases the children will live primarily with one parent and the other will have 'contact' at regular, pre-arranged intervals. Who they will live with and where will be negotiated with the help of your solicitor. Many factors will influence the outcome including whether one party has historically undertaken more of the day to day care than the other, the wishes and feelings of the children themselves (considered in light of their age and understanding), the likely impact of any change and who is better placed to be able to meet the ongoing future needs of the children.

In some cases it is possible for parents to have shared residence of the children. For this to work it has to be practical for the children to move regularly between homes without it being too disruptive and unsettling for them.

## ***Child contact***

The law generally accepts that it is in the interests of children to have regular contact with both parents.

Your solicitor will help you to work out the most suitable arrangements for child contact which can include visits to the child at home, taking the child to the other parents' home, overnight stays and holidays.

Generally, arrangements can be worked out by a process of negotiation between the parents with the help of their solicitors. If you are not able to reach a compromise then the Courts can impose a contact order which specifies exactly what contact the non resident parent will have.

In some cases one parent will try and use child contact as a bargaining chip, for example in cases of non payment of maintenance. These are two separate issues and contact with a child will not be based on whether or not maintenance payments are made.

## ***Child maintenance***

All parents have a responsibility to provide financial support to their children, regardless of whether or not they have contact with them.

Child maintenance is the payment of a regular sum of money to support the child's living costs and is payable by the parent who the child is not resident with. (In cases of shared residence the arrangements may differ.)

Child maintenance can be arranged by agreement between both parents or through the Child Support Agency (CSA) using a set formula.

The amount agreed will take into account any time the child spends with the non resident parent. For example if they stay overnight one night a week, then the amount of maintenance can be reduced to reflect this.



# Unmarried Fathers' Rights

More than one in three children are now born outside marriage. This can affect who has legal rights over the child and many unmarried fathers are unsure where they stand. If you are having problems getting regular contact with your child, or have any other issues or concerns about your child, then our skilled team of lawyers can help sort things out.

## *Contact with your child*

The law generally accepts and promotes that it is in the interests of children to have regular contact with both of their parents.

In many cases, unmarried partners have informal agreements for contact to take place between the father and the child. Unfortunately, in some cases, one parent will try and use child contact as a bargaining chip, for example, in cases of non-payment of maintenance.



These are two separate issues and contact with a child should not be dependent upon payment of maintenance. It is the child's right to have a relationship with both of its parents regardless of finances.

Our solicitors will help you to work out the most suitable arrangements for child contact which can include visits to the child at home, taking the child to the other parents home, activity based contact, overnight stays and holidays.

Generally, arrangements can be worked out by a process of negotiation between the parents with the help of their solicitors. If you are not able to reach a compromise, then it may be necessary to apply to the Courts for a contact order which specifies exactly when the child will spend time with the non-resident parent.

*Contact with a child will not be dependent upon payments of maintenance.*

## ***Parental responsibility***

Being the biological father of a child does not mean that you have an automatic right in law to parental responsibility. Parental responsibility (PR) is a legal phrase used to define who has the rights and obligations in making decisions which affect the child's life. Even though you may be registered as the father on your child's birth certificate, this does not always mean that you have automatic PR.

Depending on whether you are (or were) married to the child's mother, and depending on when the child was born, you may or may not have automatic PR.

If you do not currently have PR and would like to have more say in your child's upbringing, our experienced family solicitors can help you obtain it either by formal agreement with the child's mother, or by applying to the Court for a Parental Responsibility Order. Obtaining PR means that you will then legally have a say in how your child is brought up.

# Domestic Abuse & Harassment

Our solicitors are experts in dealing with domestic abuse. We will act quickly and confidentially to get you the protection you need and to provide you with support and advice along the way.

We can help you to take out an injunction against the person who is abusing you. This can often be done very quickly in emergency situations, sometimes even that same day.

An injunction is the term used to describe an order made by the Courts to stop someone from doing something. For example, an injunction can be made which prevents someone from coming within a specified distance of you or your home. If an injunction is breached, there can be additional legal consequences, such as arrest and imprisonment.

We provide a free half hour consultation and legal aid is available to everyone who needs injunctive protection, whatever your financial circumstances.

Domestic violence is when one person inflicts aggressive or abusive behaviour on another person to whom they are associated with, eg. married couples, cohabitants, a relative or a parent of the same child. Domestic abuse includes:

- Violence & physical abuse
- Sexual abuse
- Intimidation
- Threats (against you or your children)
- Harassment (can include text messages and phone calls)
- Emotional & verbal abuse
- Bullying in social networking websites

If you have been subjected to any of this behaviour, contact us for a confidential consultation.

# Child Care / Social Services

If your child is subject to, or about to be subject to care proceedings by Social Services, it is critical that you contact a solicitor as soon as possible.

The law relating to children is highly specialised and dealing with child care matters requires solicitors with in depth knowledge and experience. We have a team of experts who will guide you through the legal process and handle your case sympathetically.

Our team comprises members of the Law Society's Children Panel, solicitors recognised as experts in this field.

We act for children (through their appointed guardians) as well as parents and other family members (grandparents, step-parents, uncles, aunts, etc) in a wide range of proceedings. We are also able to offer legal aid for child care work.

We can assist in dealing with:

- Care proceedings
- Child residence
- Child contact
- Disputes with Social Services on behalf of parents or other family members
- Applications to discharge a care order
- Applications for contact with a child in care
- Child protection – representation at case conferences
- Adoption



## Norrie Waite & Slater solicitors offers a wide range of legal services:

- Conveyancing
- Criminal Defence
- Motoring Offences
- Family Law
- Child Care
- Housing
- Wills, Probate & Estate Planning
- Accident Compensation Claims
- Civil Litigation
- Commercial Property

For more information contact one of our branches  
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