**COMMON QUESTIONS**

**DIVORCE**

How do I get a divorce?

You submit a divorce application online and is an administrative process, from start to finish.

How much does a divorce cost?

This depends if you instruct a solicitor. There is the court fee of £593 whether you choose to instruct a solicitor or not. If you do decide to instruct a solicitor their fees are usually in the region of £750 plus vat, plus the court fee.

Can my spouse defend the divorce?

Since the introduction of the No Fault divorce, a spouse can only defend the divorce on limited grounds, such as jurisdiction issues, not simply because they don’t want to get divorced.

I want a divorce, but my spouse doesn’t, what can I do?

Your spouse cannot stop you getting divorced, you do not need their consent, they can try and delay matters, but ultimately, they cannot prevent the divorce from concluding.

We got married abroad, can we get divorced in England?

As long as the marriage was recognised in the country where the marriage took place, and as long as at least one of you lives in the UK, you can get divorced in England.

**FINANCES**

What will I get from the house?

This will depend on many factors and cannot be established until all financial information has been provided. Factors such as the housing needs of the parties and any children and what other assets there are will determine how the equity in the house is shared.

Do I still have to pay the mortgage and bills after I have left?

Once you have left, you no longer have to pay the utility bills, but if the mortgage is in your joint names, then you have a contractual obligation to the lender to pay half.

Will I have to sell the house?

This will depend on the available equity in the house and if the person remaining can buy out the other person out. It also depends on what other assets there are, the main priority is the housing needs of the children.

There is the option of a Mesher Order, which allows one parent to remain in the house until the youngest either reaches the age of 18 or leaves full time education, which can sometimes include University, and the house is then sold and the net equity divided. The issue to decide with a Mesher Order, is who will pay the mortgage until then.

Can I change the locks?

If you both own the house then you cannot, unless your spouse has been left for some time, then you are entitled to live in peaceful occupation.

We divorced many years ago but never sorted out the finances, can we do it now?

Absolutely and the sooner the better. Until there is a financial clean break order, then you both can still make a claim on the other’s assets at anytime, even many years after you are divorced.

I cannot afford to pay the mortgage, what can I do?

If you genuinely cannot afford to pay the mortgage or your share of it, then you may need to consider the option of selling the house, but you can sometimes make an application to the court, to ask for an order that your spouse pays the mortgage, but for the court to decide this, they will need to do a financial exercise, to see who can afford to pay the mortgage.

**CHILDREN**

My ex has stopped me from seeing the children, what can I do?

Get legal advice as soon as possible, that is the first thing to do.

You can consider family mediation, to see if the issues can be resolved, but if mediation fails or your ex-partner is not willing to engage, then you can make an application to the court for a Child Arrangements Order.

My ex is making all the decisions about our children, such as deciding their school, what can I do?

If you share parental responsibility with your ex, which most parents do, then neither of you should be making any important unilateral decisions about your children without the other’s consent. This does not apply to day to day decisions, but important decisions in a child’s life.

If your ex is doing so and ignoring you, then you can make an application to the court for a Specific Issue Order.

My ex wants to move with the children, what can I do?

It depends where they want to move to, if local, and it does not impact on your relationship with the children, then you cannot do anything, but if they want to move further away, or even to a different country, then you can make an application to the court for a Prohibited Steps Order and sometimes you would also need to apply for a Specific Issue Order, depending on the circumstances.

If you are worried that your ex intends on leaving the country quite soon, you can make an urgent application to the court to prevent them.

My ex won’t let my new partner meet the children.

Ultimately the decision about when the children meet your new partner is a matter for you, as long as it is an established relationship then you can decide when the time is right.

Your ex does not have the right to make such decisions, but often they are worried about children meeting new partners, in case the relationship doesn’t last, so sometimes all that is needed is reassurance.

My ex won’t let me take the children on holiday.

You can make an application to the court for a Specific Issue Order, and if you are due to go on holiday quite soon, you can make an urgent application. Holidays are usually considered in the children’s best interest.

**UNMARRIED COUPLES**

We are thinking of buying a house together, but I am paying all the deposit.

If you are not married and paying the deposit in unequal shares, then you should enter into a Declaration of Trust, to set out who is paying how much and you should purchase the house as tenants in common, rather than joint tenants. This will allow you to state who owns what percentage of the house.

You should also make a Will to set out who your beneficiaries are, in the event of your death.

It is also advisable to enter into a living together agreement, this can set out what is expected of each other during the relationship, but it can also deal with what should happen if the relationship ends.

We have been living together for many years, I have paid the mortgage and all the bills, my ex paid for the food and holidays, but we are separating, and she wants to sell the house and I don’t.

Whenever there is a dispute about a house, and if you are unable to reach an agreement, then you would need to make an application to the court under the Trust of Land and Appointment of Trustees Act 1996, the court can then make an order dealing with the sale of the house.

Can I claim on my ex partner’s pension.

Unfortunately, you can’t claim on your ex partner’s pensions, this claim is only available if you are married.

I moved in with my partner and she owns the house, we are now separating, am I entitled to any of the equity in the house.

If you are not a legal owner of the house, then the starting position is that you are not entitled to any of the equity in the house. However, there are exceptions to this, but it depends on many factors, so it is always important to get legal advice as soon as possible, so this can be properly explored.