

FAMILY DEPARTMENT CLIENT INFORMATION

Your Will

If you have not already made a Will now would be an appropriate time to do so.

If you are a parent with Parental Responsibility you may wish to consider the appointment of a Testamentary Guardian who would be appointed to look after your child/children should you die.

If you are married and you have already made a Will in favour of your spouse and are contemplating divorce you should review your Will as soon as possible. A gift by Will to a former spouse lapses once the marriage is dissolved (i.e. on the making of the Order of Decree Absolute), but the mere fact of separation will not revoke a testamentary disposition.

If you are living with someone as their 'cohabitee' and you have already made a Will in favour of your Partner and are separating you should review your Will as soon as possible.

If you require any further advice regarding this particular matter please contact our Probate Department. Our charges for taking your instructions, drafting and engrossing a straightforward Will are in the region of £100 plus VAT.

Property

If you own property jointly with your spouse or partner you may wish to consider whether you wish to hold this in a different way so that you can leave your share in accordance with your Will. You may also wish to consider this when looking at changing your Will and should discuss this with our Probate Department.

I can also discuss this with you if you wish to consider changing how you hold the property but do not wish to make a Will at the present time.

Pensions

Sometimes when you are divorcing or separating you either believe that there are no assets to divide or you are unaware that a Pension fund is an asset whether someone is already in receipt of their pension or whether it is yet to be paid or you are aware of the Pension funds but are unaware of what their value is and how the funds should be divided.

As the actual value Pension funds are often complicated to understand you may have to consider having them valued by a Specialised Valuer.

As solicitors we are unable to advise you as to their actual value in the future and how therefore it is best to divide them between you and your spouse as this is Financial Advice and outside the scope of Advice that we can give.

The higher the value of the Pension fund or if there are several funds the more likely it is that a valuation will be necessary to ensure that you understand what value these assets have and how they could be divided.

Ultimately you may decide that you do not wish to have the funds valued; or your spouse may not wish to pay for a valuation; or if there are court proceedings the Judge may not agree that such expert evidence is necessary.

We can discuss the issue of pensions in greater detail when we are at the stage of financial disclosure.

We also have a pack of Factsheets setting out common scenarios and questions that can arise in relation to pensions which have been produced by BDM (Bradshaw Dixon & Moore Ltd) who provide advice and formal reports in relation to pensions if required. If you require information about pensions we can provide you with the relevant factsheet. These do not take the place of formal financial advice but can often be helpful to give a better understanding.

If a valuation is required this can be provided by BDM or other Specialised Valuers that we use for such documentation.

We also have a summary of the main Pension changes from April 2015 which we can provide to you upon request.

Maintenance, Clean Break and Future Capital Payments

You should be aware that even after a court has made a final order that where there is an order for continuing spousal maintenance, that on any future application for variation of that maintenance the court has power to award a capital payment instead of continued maintenance. This can take the form of a lump sum, property order or pension sharing order, even if such an order was not made or contemplated or agreed not to be made in the original proceedings.

Remarriage

Under S28(3) Matrimonial Causes Act 1973 if you remarry before resolving financial matters with the spouse from whom you have just been divorced, you may be prevented from making a claim in that regard and so may lose out on a valuable settlement.

Please ensure that you discuss with us any plans to remarry so that we can advise you, to ensure that as far as possible the appropriate application on your behalf is made.

Tax Consequences

On a relationship breakdown there may be tax consequences to consider.

The principal areas where advice may be required are in relation to:

- Income Tax
- Inheritance Tax (IHT)
- Stamp Duty Land Tax
- Capital Gains Tax (CGT)
- Child Benefit

If you would like our basic fact sheets in relation to taxation or child benefit then please do let us know.

We also have factsheets from the Accountants Firm Baker Tilly on the tax issues that arise in relation to the ownership of residential property abroad in France, Spain, Portugal, Italy and the USA.

There is no substitute for taking detailed accountancy advice in this regard and we would always advise you to consider this in every case.

Child Support

If you have children and there are financial issues to be resolved between you then there may be involvement of the Child Support Agency (Child Maintenance Service). The Law is going through a transitional period in relation to Child Support whereby a new scheme is being adopted. This has several areas of change:

- Gross Wages rather than Net Income used as the basis for calculation
- % calculations used are changed
- The way that the Service is accessed to enable an Assessment to be made
- Private Agreements are encouraged
- The payment (or non payment) of maintenance where there is shared care
- Enforcement powers both in relation to arrears and regular monthly payments, which can be undertaken by the Agency/Service without consent/agreement
- Charges for accessing the Agency/Service where an Assessment is required
- Charges against both parents where the Agency/Service has to collect the maintenance

These issues may need to be considered when discussing financial settlement or court proceedings in relation to financial matters.

If you would like our basic fact sheet in relation to the new Child Support regime please do let us know.