

TURCAN CONNELL

DIVORCE AND
FAMILY LAW

Expert knowledge, sensitively applied,
to deliver the positive outcomes
you need.



Facing separation and divorce is something nobody wants to consider, for a number of reasons.

Emotions run high and there can be complex legal, financial and – crucially – family issues to resolve. It calls for calm heads and a dedicated focus on resolving matters in the best interests of everyone involved.

Our leading Divorce and Family Law team brings not just a wealth of experience to bear in such situations, but also a very human understanding. It's this expertise, sensitively applied, that's helped us deliver positive and lasting outcomes.

SEPARATION, DIVORCE AND DISSOLUTION OF CIVIL PARTNERSHIPS

The separation of a couple is often a painful transition for both parties. Experience has taught us that it is of crucial importance to make the right choice of lawyer from the outset and many individuals benefit from an early consultation regarding their rights and obligations arising from separation. In the majority of cases where couples separate, an attempt is made in the period after separation to resolve all child related and financial issues by way of negotiation, collaboration or mediation. If it does not prove possible to reach agreement, there are some preliminary matters which may have to be dealt with by the courts. These include:

- Child care arrangements
- Rights in the family home
- Interim financial support

With offices in Edinburgh, Glasgow and London, Turcan Connell's Divorce and Family Law Team is well placed to provide sensitive and professional counsel on any possible issues that may arise in the event of separation.

FINANCIAL PROVISION ON DIVORCE

In keeping with the modern practice of divorce and family law, our ethos in relation to financial issues is one of attempting to resolve matters without resorting to litigation wherever possible and we have a very high success rate in negotiating favourable settlements on behalf of our clients.

However, on those occasions where it does not prove possible to resolve issues by other means, we have considerable experience of conducting contested divorce actions in both the Court of Session and in the Sheriff Court as circumstances dictate. We ensure that, when appropriate, counsel of the highest quality are instructed. A wide range of issues can add complexity to resolving the financial aspects of divorce. These include:

- Assets acquired before marriage
- Business valuations
- Partnerships
- Farms
- Pension sharing
- Share options, incentive plans and co-investments
- Tax issues
- Trusts
- Cross border and international jurisdictional issues

CHILD RELATED ISSUES

In the event of separation, the future care and upbringing of children is of paramount importance. In almost all cases, both parents will retain full parental responsibilities and rights in relation to children under the age of 16 years, and it is becoming increasingly common for parties to agree "shared care" arrangements where children spend substantial periods of time with each parent. Clearly this is not appropriate in all cases (for example, where domestic abuse has occurred) and we are well placed to advise in all circumstances on a case by case basis.

Where possible, our team aims to resolve issues through direct discussion, taking into account all parties' opinions, including the views of the children involved, where appropriate, in order to achieve amicable solutions that are in the best interests of those children. The same principles are undertaken when dealing with relocation cases. However, when mutual agreement cannot be reached, our team can assist with:

- Disputes over residence and contact
 - Court applications for permission to relocate or to prevent relocation
 - Cross border jurisdictional issues
 - International family law cases
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COHABITATION

In situations where couples have lived together and subsequently separate, there is now the potential for either party to make a claim against the other for an award of financial provision.

In order to succeed in such a claim the party must be able to demonstrate that he or she has suffered economic disadvantage in the interests of the other party, or of any child of the relationship, and/or the other party has derived economic advantage from contributions made by the person applying for the order.

Of crucial importance is the fact that any application for an order for financial provision against a former cohabitant must be made to the court not later than one year after the termination of cohabitation.

In certain circumstances claims can also be made in the event of a cohabitant dying, and in these cases, any such claim must be made within six months of the date of death.

We are seeing a significant number of cohabitants cases proceeding through the courts at present, and our Divorce and Family Law Team has a wealth of experience in dealing with such claims. We can help guide you through the intricacies of the legislation and raise and/or defend claims on your behalf as appropriate.

AGREEMENTS

When entering into marriage, civil partnership or cohabitation arrangements, it is of increasing importance to protect yourself and your assets should the relationship break down. We regularly provide advice and expertise on the following agreements:

- Prenuptial
- Pre civil partnerships
- Post nuptial
- Cohabitation

ALTERNATIVE DISPUTE RESOLUTION (ADR)

An increasing number of our clients are interested in resolving matters arising from relationship breakdown by alternative means, rather than litigating. That sits squarely with our own ethos that family law cases should only be in court if necessary, for example, in the event of a complex legal matter that simply cannot be agreed upon, or where urgent protective remedies are required to secure the status quo pending overall resolution of matters.

The vast majority of our cases can be dealt with without recourse to the courts, and even in cases where parties cannot reach agreement, Arbitration is now available as an alternative to court proceedings. An experienced specialised family lawyer is appointed as an Arbitrator to decide on specific issues as required. The Arbitrator's decision is binding on the parties and can be relied upon in the same way as a contract, or a decision by the court. It is faster, more economic and protects the parties' privacy in a way that a court action does not, and is a very useful alternative in cases where agreement simply cannot be reached.

In less contentious cases, collaborative law and mediation can be powerful arenas for discussion, usually leading to agreements being reached by the parties for themselves, which is generally seen as preferable to having a solution imposed upon them.

ETHOS

We recognise that issues concerning personal relationships call for sensitivity and understanding alongside the technical legal skills required to deal with the complex and changing landscape of family law. We understand that clients regard the cost of instructing a lawyer as a real concern when separation has arisen and we work hard to achieve the balance between the provision of expert legal advice and doing so at an affordable cost.

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