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SHAKESPEARE MARTINEAU

LIFE TIMES

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hello

Welcome to the latest edition of our magazine Life Times where we bring you insightful articles and expert opinions on matters that could directly impact your personal life and financial well-being. As the UK gears up for the forthcoming general election, we find ourselves on the cusp of significant potential changes that could reshape various aspects of life for private individuals.

This election holds considerable weight, with key policies and proposals on the table that could influence taxation, healthcare, property and investment landscapes – more to follow when we know more, of course. In the meantime we take a look at the very important issue of capacity to vote, further key aspects of estate planning, the mechanics of buying property, how to leave gifts to charities and how you can ensure that your pets are looked after and much more.

As always, we'd love to hear from you if there is any subject you would like to see covered in future editions. We are here to guide you through any journey you or your family may be on and look forward to advising and working with you.

Thank you for being part of our community. We hope you find this edition an informative read.

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A Guide to Buying a House

Buying a house is likely to be the biggest investment you will make in your lifetime. You are likely to have questions regardless of whether you're buying your first home, relocating, or adding a house to your property portfolio. That's why our residential conveyancing team has put together your most frequently asked questions to help you make the right decision for you and your family.

What does the property buying process involve?

Before buying a property, it is important to consider the steps involved to help you understand the timeline of your purchase. The common stages include;

Drafting contracts and raising enquiries – the seller's solicitors will draft a contract and send it to the buyer's solicitor who will review the contract and raise any enquiries.

Arranging a survey – the buyer can arrange for a survey to be carried out on the property to identify any potential issues that may affect it.

Ordering searches – the buyer's solicitor will conduct searches to ensure there are no issues with the property.

Obtain a mortgage – if a mortgage is required to purchase the property, the buyer will need to arrange this with a lender. The lender will then conduct a valuation survey of the property and determine its value and the amount they are willing to lend.

Signing contracts – when all searches and enquiries have been carried out, both the buyer and the seller will sign the contracts.

Exchange – the buyer and seller will exchange contracts and the transaction is now legally binding. To pull out after this point in the process may incur fees and loss of deposit funds put down.

Completion – the buyer's solicitor will transfer the purchase funds to the seller's solicitor and the keys to the property will be provided.

Post completion – the buyer's solicitor will register of the change ownership with the Land Registry and ensure all necessary payments have been made.

What are the costs involved in buying a house?

Alongside the property, there are a number of costs to consider when buying a property. These include;

Deposit – a percentage of the property's value, typically 10% of the purchase price.

Mortgage fees – when taking out a mortgage, you may need to pay several fees associated with it, such as valuation fees, mortgage broker fees and arrangement fees.

Stamp duty – the tax you pay to the government if the property you are purchasing is over a certain value. The amount you pay will depend on the purchase price and whether you own any other properties.

Legal fees – the fees paid to your conveyancer to carry out the legal work associated with your property.

Land registration fee – the fee paid to register the property with the Land Registry.

Search fees – you will need to pay for a variety of searches to be carried out against your property and surrounding areas to ensure there are no issues that will impact its values or your ability to use the property.

Surveyor fees – if you choose to have a surveyor conduct a survey on the property to identify any potential issues then there will be a fee to do so which varies depending on the survey you require.

Removals – you may need to pay to hire a removals van to move your belongings into your new home.

Buildings and contents insurance – you will need to arrange buildings and contents insurance to protect your new home and belongings against damage or loss. This is usually started from the day you move.

What is exchange of contracts, and what happens during this stage?

Exchange of contracts is the legally binding stage of the conveyancing process where the purchaser and seller exchange signed contracts. During this stage, the completion date is agreed upon, and a deposit is paid by the purchaser. Once contracts are exchanged, both parties are legally obligated to proceed with the transaction. Pulling out at this stage can be a very expensive thing to do.

What happens on completion day, and when do I get the keys to my new property?

Completion day is the final stage of the conveyancing process when ownership of the property is transferred to you, and the keys are handed over. On completion day, the remaining balance is paid by the buyer's solicitor, and the seller vacates the property. You can then collect the keys, usually from the seller's estate agents and move into your new home.

What should I do if I encounter any issues or disputes during the conveyancing process?

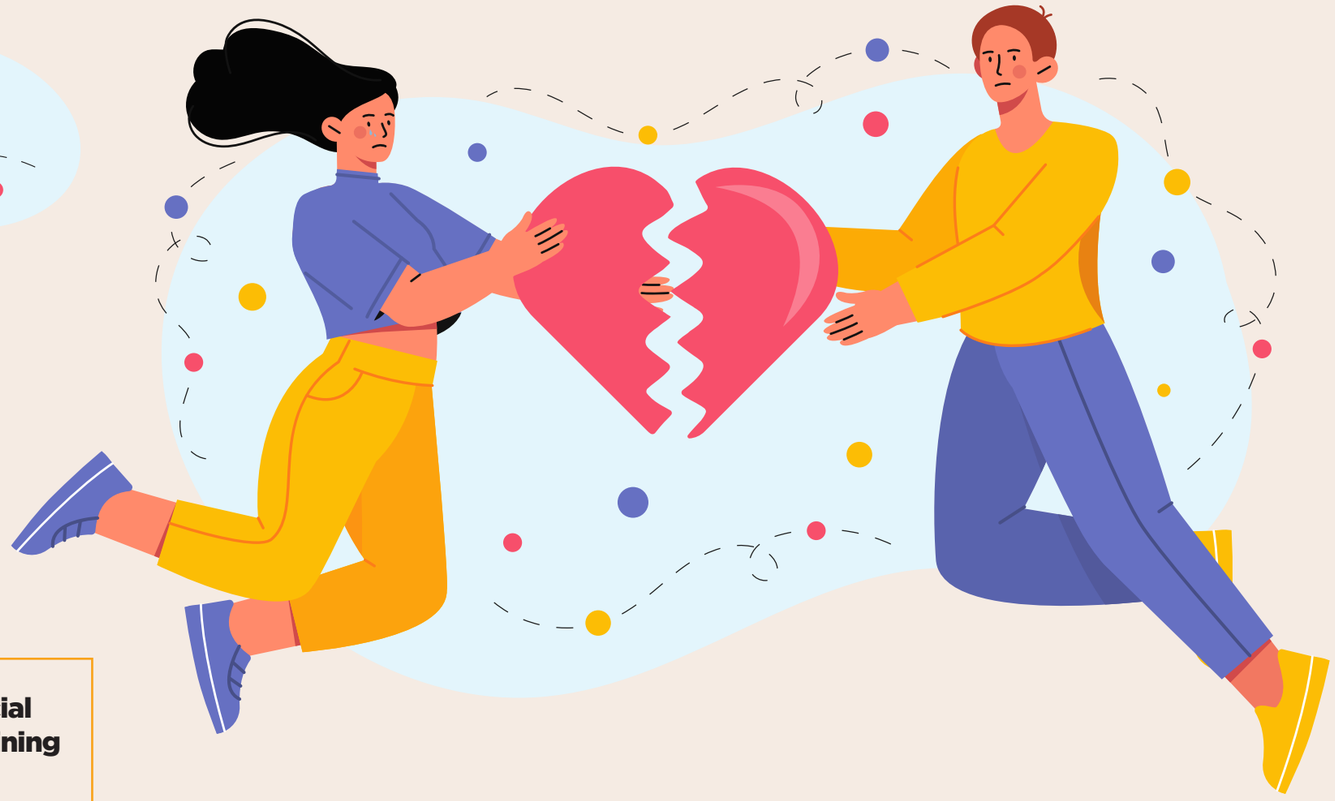
If you encounter any issues or disputes during the conveyancing process, it's essential to communicate them with your conveyancing solicitor immediately. They can provide legal advice, negotiate with the other party, and take appropriate action to resolve the issue in your best interest.

What is the difference between joint tenants and tenants in common?

As joint tenants, you will have equal and undivided rights to the property. Should one owner pass away, their share of the property will automatically transfer to the remaining owner.

If you are tenants in common, you will own a share of the property and should one owner pass away, their share will not automatically transfer to the other owner and can instead be inherited by your chosen beneficiaries in your will.

Dramatic Divorce Drop Shows Changing Attitudes to Marriage



Latest ONS statistics show a 30% decrease in divorces in 2022, following the introduction of no-fault divorce.

29% of divorces were granted under newly introduced 'joint applications.'

Danger of financial claims still remaining "live" between couples who choose a DIY divorce.

The latest release from the Office for National Statistics (ONS) shows divorces plummeted in 2022, following the introduction of 'no-fault divorce' in April that year. The data, which covers January – December 2022, shows that divorces dropped by 30% compared with the previous year – the lowest number since 1971.

The plummeting divorce rates could be reflective of changing attitudes to marriage, with many couples simply choosing to cohabit instead of tying the knot.

Stephanie Kyriacou, family associate said:

"A drop this significant is hugely surprising and one we haven't seen for many years.

"Whilst 'no-fault divorce' legislation made it easier for people to separate, the ONS data suggests that fewer people may be choosing to get married in favour of other living arrangements. Coupled with the aftermath of the pandemic and cost of living crisis, marriage and divorce may be simply unaffordable for some people, which is reflected in the decrease in divorces."

The statistics also show that 29% of divorces in 2022 were granted under joint application, which was introduced as part of the 'no-fault divorce' legislation.

However, our family law team warns that while 'no-fault divorce' has made the process easier and less blame-orientated, DIY divorce applications should come with health warnings for couples.

Finally introduced in April 2022, 'no-fault divorce' represented a huge modernisation of the divorce system in England and Wales, bringing legislation in line with many other countries around the world. Under the new set of rules, separating couples no longer had to provide evidence or reasons for the divorce, removing the need to apportion blame. Now, when filing for divorce, couples can cite an 'irretrievable breakdown'.

"It's definitely now easier to separate and a huge amount of mudslinging has been removed from the process. However, there are still health warnings for the process, particularly when parties are representing themselves and where there are complex financials.

"Spouses that are applying for a divorce need to ensure they are ticking the box for financial claims within the divorce application. Failing to do this could potentially mean they are giving up their right to make financial claims against their ex-partner, which could be disastrous if they are the financially weaker party.

"In addition, as the change in law has made it easier for parties to carry out their own divorce, many divorcing couples are failing to resolve financial matters by way of a legally binding financial order. This means they are unknowingly still financially tied to their ex-partner, as financial claims will still remain 'live'."

While getting a divorce may be easier now than ever before, there are still complications in the process, particularly where money is concerned. Pension pots, investments and property must all be taken into account to ensure that any outcome is as fair as possible. One option that separating couples can pursue is a financial order/consent order, which dictates how sums of money and assets should be distributed, after a divorce has been filed.

"Who retains the family home is still arguably the most contentious area of any divorce, and that's never likely to change."

"Even if a couple has simply fallen out of love, each party will still be wanting to get the best financial deal going forward. Particularly if there are children involved, or any complicated maintenance needs, it's essential that everything is calculated correctly, and early legal advice is sought.

"A financial order can be extremely helpful, but these are complicated legal documents and certainly require the help of a specialist family lawyer. It may be an additional cost, but the risks of getting it wrong can be severe. Likewise, getting a financial order in place after a divorce has been granted can be much trickier; it's best to think about it from the start.

"'No-fault divorce' means people can now start the divorce process on a much more amicable footing. They can agree it's broken down and then file for a divorce. Things are calmer from the beginning, and that makes it much easier for lawyers to try and reach a settlement that works for everyone. However, there will always be critics and while it removes the ability of one party to contest the divorce, some argue that the new legislation has made separation too easy to attain."

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What Lifetime Gifts are Exempt from Inheritance Tax?

Did you know that you can make certain lifetime gifts, and give money away, without adversely affecting your inheritance tax position? However, some exemptions require careful planning to make sure that you don't fall foul of technical rules.

What is inheritance tax?

Inheritance tax is a tax on the estate (assets, property and money) of someone who has died. There is normally no inheritance tax to be paid, so long as:

- **the value of your estate is below £325,000 (the current threshold);**
- **you leave everything above £325,000 to your spouse or civil partner, or**
- **you leave everything above £325,000 to an exempt beneficiary (such as a charity or certain political parties)**

Where the value of your estate is above £325,000, then the amount above the threshold might be liable for inheritance tax at the current rate of 40%. However, there are ways to reduce (or even avoid) inheritance tax by making gifts during your lifetime so that the value of the gift is disregarded for inheritance tax purposes.

How much money can I give away without tax implications?

You can give up to £3,000 per tax-year as gifts. If you have not given away the full £3,000 allowance within the previous tax year then you can carry forward the balance of that allowance to the next tax year. However, you can only carry forward an allowance for one year.

Here we outline the main exemptions from inheritance tax when making lifetime gifts and the limits and restrictions you need to be aware of.

Gifts between spouses and civil partners

There is no limit to the amount that can be given away by one individual to another individual, as long as the person making the gift survives this by seven years. However, complications may arise if that person has made a gift to a non-individual such as a company or trust.

Gifts made more than seven years before death

You can make an unlimited number of gifts, not exceeding £250; however, the gifts do have to be to different people. For example, you cannot make a gift of £3,000 to one person and then make a gift of £250 to that same person – if a particular person receives even £1 over the £250 limit in any tax year, then the whole £250 exemption is lost for that person.

Small gift allowance

Gifts between spouses and civil partners are normally exempt; however, there are restrictions where one of the parties to the marriage (or civil partnership) is not resident for inheritance tax purposes within any part of the UK. I.e. you can give your spouse or civil partner as much as you like during your lifetime, as long as they live permanently in the UK.

Normal expenditure out of income

Habitual gifts, which are paid from your excess income and can be made without adversely affecting your standard of living, are exempt from inheritance tax. However, careful record keeping is needed, as HM Revenue & Customs will require proof that the gifts were genuinely made out of excess income if you die within seven years of making the gifts.

Gifts to charities and political parties

Gifts to registered charities and political parties are also exempt from inheritance tax. In the case of gifts to political parties, exemption from inheritance tax will only apply when, at the last election preceding the transfer of value, the political party had at least two MPs (or one seat) and a minimum of 150,000 votes.

Living costs

Payments to help with another person's living costs, such as an elderly relative or a child under 18, can be exempt from inheritance tax.

Careful planning is needed

We understand that personal tax planning is important – we know you want to look after and protect the wealth you have accumulated, and really make the most of it. If you're looking to minimise your tax liabilities, or considering making gifts during your lifetime, then speak to a member of your local private client team.

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Knotweed Nuisance

A New Dawn for Property Owners

In the realm of property transactions, the discovery of Japanese Knotweed (JK) has been a persistent thorn in the side of both buyers and sellers. For years, the legal landscape has seen a flurry of claims against sellers who failed to disclose the presence of this invasive plant, and other nuisance related claims, resulting in a cascade of legal battles and financial ramifications. However, a recent ruling by the Supreme Court has sent shockwaves through the legal community, potentially reshaping the terrain of JK-related litigation.

Davies v Bridgend County Borough Council

The case in question, which revolves around the liability of a Council for residual JK damage, marks a significant turning point. Previously, the Court of Appeal's judgment had provided hope for claimants seeking redress for the diminution in property value in light of JK infestations. However, the recent Supreme Court ruling has overturned this decision, signalling a pivotal moment in the legal interpretation of JK-related liabilities.

At the heart of this ruling lies the question of causation. While claimants have often pursued substantial damages for the diminution in property value attributable to JK, the courts are now poised to scrutinise causation more rigorously.

This shift underscores a broader trend where the courts appear to be re-evaluating the scope and extent of damages in cases involving JK.

Key Takeaways

One key takeaway from this ruling is the importance of due diligence in property transactions. Buyers and sellers alike must exercise heightened vigilance when it comes to disclosing JK presence. Failure to do so could have far-reaching legal and financial consequences, as evidenced by the recent Supreme Court ruling.

Moreover, this ruling underscores the need for legal practitioners to stay abreast of evolving case law and regulatory developments. The landscape of property law is constantly evolving, and staying ahead of the curve is essential to providing clients with informed and effective advice.

Summary

While the Supreme Court's ruling may represent a setback for claimants seeking substantial damages in JK-related cases, it also offers an opportunity for clarity and certainty in the legal framework governing property transactions. By carefully navigating these developments, lawyers continue to provide invaluable support and guidance to clients in the complex world of property law.

What Does Japanese Knotweed Look Like?

Japanese Knotweed is a tall plant with hollow, bamboo-like stems that are green with purple speckles, which can grow up to 10 feet tall. It has heart-shaped leaves arranged in a zig-zag pattern and produces small, creamy-white flower clusters in late summer and early autumn.

What Is Japanese Knotweed?

Japanese Knotweed is an invasive plant from East Asia known for its rapid growth. It thrives in various environments, often outcompeting native vegetation and causing ecological and structural damage.

Why Is Japanese Knotweed a Problem?

Japanese Knotweed is problematic because its dense growth can alter habitats and harm local wildlife. It can cause structural damage by penetrating concrete and building foundations. It also decreases property values due to its destructive nature and poses legal challenges for property owners. Therefore, early detection and management are crucial to mitigate adverse effects.

Taking Your Child on Holiday:

A Guide for Separated Parents

Summer is approaching and with that, the long school holiday. It's the time of year which should be your chance to get a change of scenery and make lots of memories together. However, if you have been through a separation, we understand it isn't always that easy. Organising a family holiday can be complicated but we are here to help ensure you and your children have the best summer possible.

What is the law around taking your child on holiday when separated?

If you and your ex have already gone through court proceedings and there is a Child Arrangements Order in place this may deal with holidays. You should always refer back to and comply with any court order, otherwise, you will be in contempt of court and the other parent can make an application to the court for breaching the order.

What is a Child Arrangements Order?

A Child Arrangements Order (CAO) is an agreement concerning where a child lives and who a child can have contact with. CAOs are usually sought following the breakdown of a relationship and replace contact orders and residence orders.

What if I do not have a CAO?

If you don't have a Child Arrangements Order and want to go on holiday abroad with your children then you will need the permission of anyone with parental responsibility. If possible, we recommend getting the other parent's permission in writing, such as by email or text. This means you can refer back to it if they try to change their mind about the holiday later.

If your ex won't agree to the holiday and you still want to go, you will need to make an application to the court for permission. The court will be able to make an order granting you permission to go on holiday or give you a reason as to why you aren't allowed. Again, you must follow any court order made.

Going without the knowledge or permission of the other parent, either by consent or court order can mean that they can accuse you of child abduction, which is a criminal offence. The police can become involved and this could have long-term repercussions.

Are there any exceptions?

Consent is not legally required by the other parent if the holiday is for less than 28 days and a Child Arrangements Court order is already in place to confirm the child lives with the parent taking them on holiday, but it is always better to have consent, rather than run the risk.

How do I obtain consent from the other parent?

When trying to get the permission of the other parent, it's best to provide a clear plan with all the necessary details of your holiday plans and answer any questions they might have. Think about what you want to do, where you want to go and how long for. They may also wish to know if you will be taking anyone with you such as a new partner. If so, do they like them or will that make it difficult to get them to agree to the holiday? It is also a good idea to support communication between your ex and children while you are away so that they don't feel isolated.

It is best to give your ex all the information you can because if you have to make an application to the court, they would expect to know all the details about your holiday anyway. Key information will be your travel details, such as travel dates, flight numbers, hotel booking details, and whether there is any relevant medical information needed, such as injections.

What evidence and documents do I need to show the other parent's consent?

As well as the child's passport, taking a paper trail to prove who their parents are is vital.

This includes:

- The child's birth certificate and the parent's.
- A divorce or marriage certificate, if you are a single parent but your family name is different from the child's.
- If you changed your surname upon divorce, the change of name deed and a copy of the final order (old decree nisi).
- Bringing along an expired passport, which proves the name change could also be helpful.
- You will need to obtain written consent from the other parent or anyone who has parental responsibility for the child is another wise move. A properly drawn up consent form is ideal, or if that's not possible, a letter from the other parent, confirming their full contact details, that they are the parent of the child and that they have given consent for the holiday, along with their signature, should suffice.

What happens if the other person with parental responsibility does not provide their consent?

You'll need to apply to a court for permission to take a child abroad if you haven't got permission from the other people with parental responsibility. This is called a 'temporary leave to remove,' which is a type of Specific Issue order. The court will review the application and a hearing will be listed to deal with it. You must give details of the trip, e.g. the date of departure, when and how you're returning, and contact details of people with parental responsibility staying in the UK. You and your ex will attend the hearing and at the end, the court will determine whether or not you can take your children away. If it agrees, you will get a court order confirming that. Your ex cannot prevent you from going if you have a court order and cannot accuse you of child abduction at a later date.

It is important that despite separating, you and your ex are able to move forward and that your children still get to spend quality, fun time with you. The summer holidays are the perfect chance for that and so if you need any help our team are on hand to help.

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Avoid a cat-astrophe!

Make a plan for your pets meow and forever

PDSA's 2023 study confirmed that 53% of UK adults own a pet. But what happens to your pets when you die?

While it is not a legal requirement to include your pets in your will, it is important that they are included to ensure that your wishes are carried out and they are well cared for after your death. Despite what many owners think, the law treats pets as property; an owned possession similar to a house, car, or piece of furniture. Even though your pets are part of the family, legally there is no provision to leave gifts to your pets in your will.

As pets are considered property, you cannot leave money directly to your pets in your will. The following options are available to you instead:

1.

To leave your pets to a trusted beneficiary and then in turn leave money to that beneficiary to care for your pets. You should consider how long your pets might live and whether the beneficiary is able to care for them. It's important to note that there is a possibility that the money bequeathed to the beneficiary will not be spent on the living costs of the animal, although hopefully the beneficiary will carry out your wishes if it is someone who you trust.

2.

To leave the decision as to who will care for your pets entirely to the executor of your will, and as part of this, prepare a Letter of Wishes to sit alongside your will. This would enable you to state your wishes for your pets' care and any specific needs they may have. This route will enable you to make changes easily in the future, without the need to rewrite or alter your original will. It is important to note however that your Letter of Wishes is not legally binding but will hopefully act as useful guidance.

Fun fact:

Dusty Springfield, a British singer, who died in 1999 left very specific wishes for her 13 year old cat, Nicholas. These included instructions that her nightgown was to be placed in his bed, her vocal recordings were to be played to him while he slept at night, and he was to have a strict diet of baby food from America.

3.

Gifting your pet to an animal charity. Several animal charities promise to look after and find a new home for your pet following your death. One example is the RSPCA which offers a home for life for animals bequeathed to them in a will. Likewise, Dogs Trust is another charity that offers a canine care card which guarantees care and re-homing of your dog in the event of your death.

You may also consider making a charitable donation to your chosen charity to help care for your pets. Donations that you make to charitable organisations could also help reduce your estate's inheritance tax bill (this will depend on the circumstances at the time).

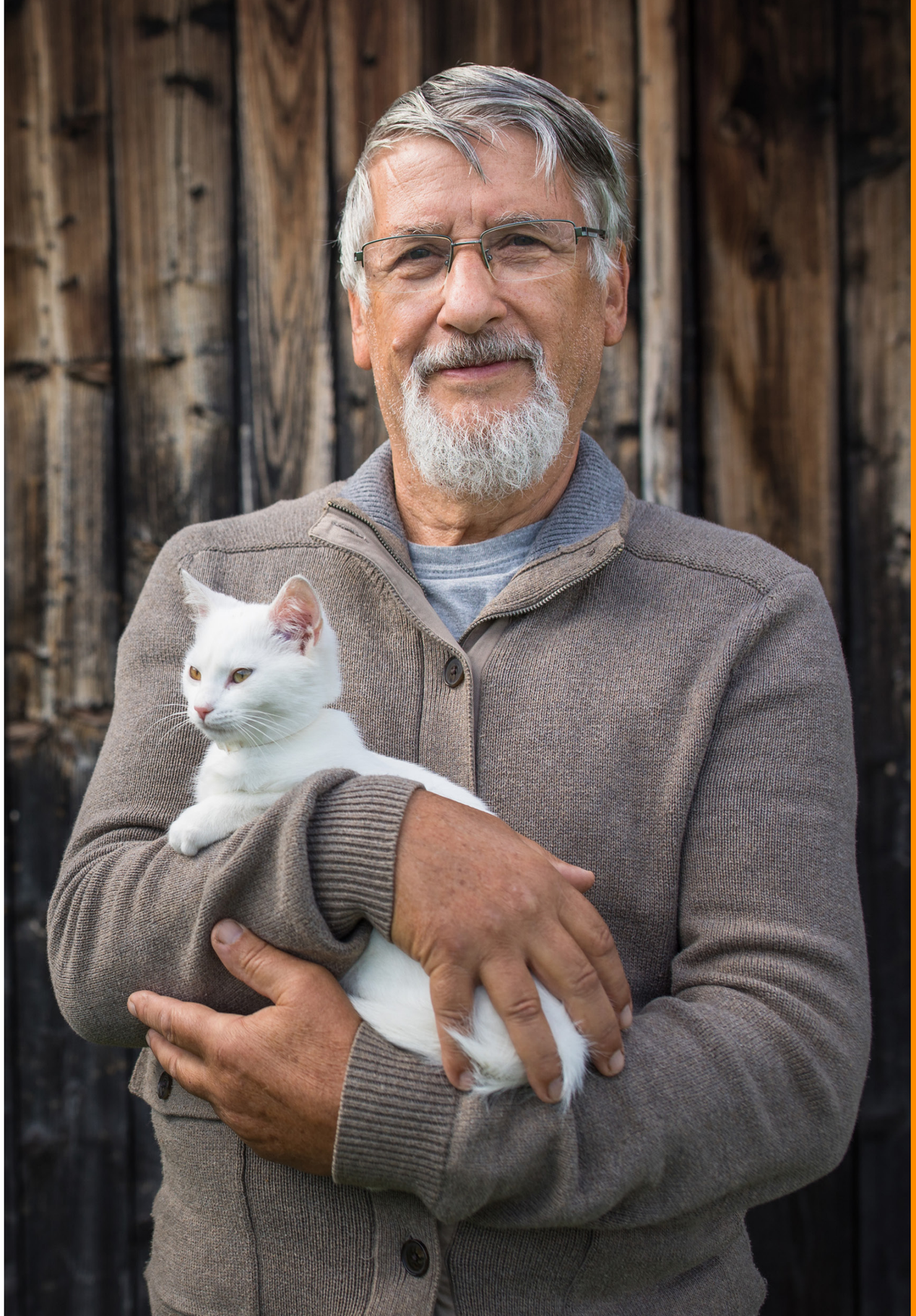
4.

Set up a discretionary trust in your will or during your lifetime. The beneficiary of your pet in the event of your death could also be a beneficiary of the discretionary trust. The trustees of the trust would dictate when and how the beneficiary is to receive funds in line with your wishes. This may provide peace of mind that the money for the care of your pet would be used as you intended.

5.

While we do not advocate for euthanising healthy pets, it is not illegal. The Animal Welfare Act 2006 is the principal law relating to animal welfare, but it does not prohibit the euthanasia of healthy pets. You can therefore stipulate in your will that your healthy pets are to be humanely euthanised in the event of your death. You may consider this option if you think that it is likely that your pets will suffer inhumane treatment following your death. There could be problems finding a veterinary surgeon who will euthanise your pet as veterinary surgeons are not obliged to kill a healthy animal unless required to do so under statutory powers, such as if it were a dangerous dog. You may also wish to consider who is going to pay for any associated costs and specify this in your will.

If you have not yet considered who will care for your pets in the event of your death, our dedicated private client team is happy to help, talk you through the process and your options.



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Estate Planning

Helping you prepare for you and your families future

It is not uncommon for individuals to have certain preconceptions about their wills, estate planning or personal circumstances that are simply not true. Our private client team got together to answer the most common myths and set the record straight once and for all.

Myths and Facts

It is FALSE that if one of my parents becomes ill, I'll be able to access their account to pay their bills

The only way someone can manage another person's finances is through an enduring or lasting power of attorney. This is a legal document that lets an individual (known as a 'donor') appoint one or more people to make decisions on their behalf. This could be a temporary situation – for example, if someone ends up in hospital and needs help with paying bills – or a longer-term situation, such as being diagnosed with dementia or losing mental capacity.

Arguably, a power of attorney is one of the most important legal documents a person can make.

Accidents and illnesses can happen to anyone at any time, so it is highly advisable not to leave this exercise until too late. If someone does lose mental capacity without a power of attorney in place, loved ones will have to apply for the right to manage their financial and health affairs through the court, which is a lengthy and costly process.

It is FALSE that if my parent gets better, I will maintain control of their finances

A power of attorney can be revoked at any time as long as the donor is mentally capable. If someone regains capacity or becomes well again, they can make a written statement – called a 'deed of revocation' – to the Office of the Public Guardian, asking to end the power of attorney and regain control of their finances. If the power of attorney is not revoked, an attorney can still step back and let that person carry on as before until they're needed again.

It is FALSE that if I lose mental capacity, my parents will be able to make decisions on my behalf

Unless you are under the age of 18, no one automatically has the right to make decisions on your behalf if you lose mental capacity. The only way your parents can do so is if you have appointed them as your attorneys in your power of attorney legal document.

If you lose mental capacity without a power of attorney in place, your parents will be required to apply for the right to manage your financial and health affairs through the court – this is an expensive and time consuming process.

Cohabiting couples should:

- **Avoid family arguments**
- **Stop assets getting into the wrong hands**
- **Minimise inheritance tax**
- **Prevent expensive and time-consuming disputes**

Unmarried and unprotected

Danielle and Jasmine are an unmarried, childless, cohabiting couple in their 30s who have been in a relationship for more than 12 years. Due to Jasmine having longstanding debt issues, Danielle is the only person named on the mortgage of their two-bedroom home in Northamptonshire.

They had planned to add Jasmine onto the mortgage in two years' time when they were due to remortgage. However, Danielle was killed in a car accident before this took place and she did not have a will in place. As a result of this, the property followed the rules of intestacy, meaning it was shared equally between Danielle's living parents, despite them not speaking in years due to them not agreeing with their daughter and Jasmine's relationship. As Jasmine cannot afford to buy the property off them, she has been forced to move out and leave the home behind.

How it could have been solved:

While there is no legal requirement to make a will after a property purchase, it should be done to ensure your estate is distributed according to your wishes.

This is even more important if you are not married or in a civil partnership. Often, cohabiting couples assume their estate will automatically go to their partner if they die. However, under the rules of intestacy, unmarried couples have no right to inherit when someone dies without a will in place – regardless of how long they have been in a relationship for.

Jasmine could, however, go to court and make a claim for a share of Danielle's estate, but this will cost both her and the estate in time and money, which could have been avoided with a will. Furthermore, a declaration of trust could have been put in place if Jasmine was contributing to the property or family finances in other ways. Taking out life insurance could have also provided further financial protection.

What rights do grandparents have?

The relationship between a grandparent and a grandchild is unlike any other. It can offer a level of support and understanding that can't be found with other relatives and is often a vital part of a child's upbringing.

Unfortunately, in the UK, grandparents do not have automatic rights to see their grandchildren. However, if you're a grandparent and are currently being prevented from seeing your grandchildren then there are options available. Here we explain how you can maintain access and keep the relationship going.

How do I get to see my grandchildren?

The most common reason for grandparents not to be able to see their grandchildren is relationship breakdown. This could be between a grandparent and their children, or between the grandchildren's parents. Either way, the separation can be upsetting for the grandparents and the grandchildren.

Speak to their parents

Before turning to legal action you should first try and speak to the parent that is preventing contact with your grandchildren. By having an honest conversation, the parent may begin to change their mind about access. Just remember that having a quick chat is unlikely to cause an immediate change of attitude, so this may require several conversations. Therefore, it's vital not to threaten legal action after only one or two conversations, as this could increase tensions unnecessarily.

Mediation

If initial conversations don't go to plan, then mediation might be a good route to try, whether this is with a professional or another family member. Only after these options have failed should you consider making an application to the court.

Child arrangements order

Unfortunately, grandparents don't have the same automatic right to go straight in and apply for a court order in the same way that parents do. However, family courts do recognise the importance and valuable role that grandparents can play in their grandchildren's' lives so it's likely that permission will be granted to allow you to make the application for a child arrangements court order for contact.

The child arrangements order will determine who your grandchildren will have contact with and for how long. You can read more about child arrangement orders generally in our guide to making child arrangements during a divorce or separation.

What if my grandchildren's parents break the child arrangement order?

If you have obtained a child arrangements order to see your grandchildren, and their parent does not adhere to this order, then you can return the matter to court and request that the order is enforced.

Will a change in my grandchildren's circumstances change my grandparent's rights?

If there has been a change of circumstances, such as parental separation or the death of one or both of their parents, unfortunately, the same provisions still apply – no matter how harsh this may seem.

Getting help with seeing your grandchildren

Family breakdowns can be emotional and difficult for everyone involved. However, what is usually overlooked is the emotional distress caused by a loss of the relationship between grandparents and grandchildren.

If you're a grandparent and are experiencing barriers with having contact with your grandchildren then we can help. Speak to one of our family lawyers to discuss the options available to ensure you don't lose touch and maintain that vital relationship.

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SHAKESPEARE MARTINEAU

Leaving money to charity in a will

As people with significant personal wealth get older and start to think about their legacies, as well as taking care of their own families, many look to provide assistance to those less well-off. One of the ways that those with substantial wealth look to do this is through the setting up of a charity, either via their will on death, or during their lifetime.

Why set up a charity?

Individuals may choose to leave gifts to charities in their wills or make regular gifts during their lifetime.

People with substantial wealth may set up a grant-making charity to create an ongoing legacy and ensure funds are managed to support causes close to their hearts.

Setting up a charity can have tax advantages for both the individual and the charity, as most of the income and capital gains of a charity are tax-free and charities can claim back income tax through the Gift Aid scheme.

Can a will be contested if money is left to charity?

A will can be contested if money is left to charity, but it's less likely than if left to an individual beneficiary.

A will can be contested if there are doubts about its validity or the mental capacity of the testator at the time of making the will.

If there are allegations of undue influence or fraud, the will may be contested.

If the will is valid and there are no concerns about mental capacity or undue influence or fraud, it's unlikely to be successfully contested even if most of the estate is left to charity.

What is the best way to leave money to charity?

The best way to leave money to charity depends on your personal circumstances, charitable interests, and financial goals.

1.

Make sure your wishes are upheld

It is important that having made the decision to make a will and benefit a charity, that a donor's wishes are upheld. Unfortunately, the rules on making a will are strict and if not followed properly, then the will is not valid and the gift fails. This often doesn't come to light until after a person has died and by then it's too late to rectify. It can also happen that disappointed family members may also try to challenge the validity of a will after a person's death, or bring a claim against the estate for financial provision.

If a will challenge is successful, the will is overturned and the important gift meant for the charity never reaches them. Even if the claim is unsuccessful, it will have caused delay and stress and the charity is still likely to have used up some (if not all) of the value of the gift in legal fees.

While it's not possible for an individual to completely safeguard their legacy and prevent claims being made, there are some steps which they can take to reduce the risks.

2.

Use a solicitor

Donors who wish to leave legacies to charities are encouraged to use a solicitor or professional will writer to prepare their will as:

- The solicitor can ensure that the donor's wishes are followed properly and recorded, particularly their reasons for making the legacy to the charity if it is to the detriment of other family members.
- The solicitor can ensure that the will is validly executed (many wills are invalid because they aren't witnessed properly).
- The solicitor should satisfy themselves that the donor has capacity to make the will and to advise the donor to get a medical report if capacity is in doubt.

If a claim is made against the estate, then the solicitor's will file will contain crucial evidence and the solicitor who prepared the will can be a key witness.

3.

Communication

Donors should communicate with their family and be open about their testamentary wishes either speaking to them during their lifetime or leaving a letter of wishes with their will setting out their reasons. Some family members simply cannot accept that their parent/relative didn't want them to inherit and are immediately suspicious of any will which doesn't align with their expectations, even if there is no real grounds to contest it. If the donor has had "the conversation" with their family and addressed concerns during their lifetime or else left a note detailing their reasons, then that makes it less likely a claim will be made against the estate.

4.

Education

When the terms of the will become known, charities should be encouraged to liaise with the donor's family members in a timely and sensitive manner– explaining the good work that the charity does, how the legacy will be used and how the legacy is not a windfall for the charity, but helps keep the charity operating.

The charity can also use this opportunity to address the often held mistaken belief that the charity is free to give the money back to the family if they really wanted to. Many people simply don't know that the charity is legally obliged to only use legacies for its charitable purposes and only in very specific circumstances is it free to depart from that.

5.

The small print

It is important to remember that most charities other than the very smallest will need to be registered with the Charity Commission in order to be recognised by HMRC and gain the tax advantages that come with charitable status. Those setting up a charity need to be aware of the requirements and conditions of registration from the outset when preparing their governing document and deciding on their objectives.

If this is the route you would like to explore to ensure that your wealth is leaping into action for those less fortunate, the team can advise and assist with the setup and ongoing running of a charity.

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How to get a divorce

A Step By Step Guide

Going through a divorce or separation can be one of the most stressful periods in your life and if you're unsure of what the divorce process is, or how it works in practice, then the whole thing can feel a little bit overwhelming. We break down the process of getting a divorce into seven steps to help you manage a difficult time in your life.

1. Applying for a divorce

One person or a couple jointly starts the divorce application. This can be done online or via a paper application.

There is now no requirement to give a reason for divorce or blame your partner – it is now largely on the basis of irretrievable breakdown of the marriage.

2. Reflection Period

The court sends your partner a copy of the application and the new and important 20 week reflection period starts. The new law stipulates a minimum allowable period of 20 weeks between the initial application and the granting of the conditional order, the old decree nisi, and then another six weeks between this and the final order.

While there was some concern that the new legislation would mean 'quicker/easier' divorces, this period will mean the shortest divorces will still take at least six months to complete, rather than 3-4 months under the previous law.

3. Conditional Order Application

Within the divorce application, there is a question asking if you want to make a financial claim, i.e. if you want to finalise your financial matters in court after your divorce. Although completing a financial disclosure form is not compulsory for every divorce, it is a useful tool to give both parties a clear understanding of each other's financial position, as people don't always know exactly what there is 'money-wise' to agree a fair financial split.

Before you even start considering how you're going to divide things up, it's important that you are both open and honest with the information you provide about your finances.

Financial disclosure is not part of the divorce application document, but it does tend to be done in parallel to completing the application. You can read more information about financial settlements on the family law section of our website.

4. Application Review

Once you've filled in your application, you'll need to send it to the court, along with either your original marriage certificate or an official copy (which you can obtain from the local registrar for around £12). You can find the address of your nearest divorce centre on the gov.uk website. You can also apply for a divorce online rather than send in a paper application.

As the applicant(s) you will also need to pay a fee to apply for a divorce (this is currently £550) – the application won't be issued without a payment being made. Payment can be made via debit or credit card, or by cheque.

Although it is the responsibility of the applicant(s) to pay the fee, people often agree with their ex-partner to share the costs (if they are aware the application is being filed at this stage). If you are on a low income you may be able to get help with the fees, but you will need to make a separate application for this and produce details of your circumstances.

5. Conditional Order

The court grants the conditional order (and the six week cooling off starts). Once you've sent your divorce application to the court, your ex-partner will be sent a copy too. As the 'responder' they must acknowledge that they have received a copy of the divorce application by signing and returning an acknowledgement of service form to the court. They must do this within seven days of receiving the papers. The new Divorce, Dissolution and Separation Act has removed the option for an ex partner to contest a divorce.

We recommend that you speak to your ex-partner in advance so they're aware of the reasons you have filed the application and so they can keep an eye out for the papers. This can help prevent a delay with returning the form, which in turn can lead to severe delays with the divorce process and sometimes incur additional costs.

6. Final Order Application

You apply for the final order. The final step in obtaining a divorce takes place six weeks and a day after your final order is pronounced. If you're the applicant then you will be the one to apply for the final order (the legal document that officially dissolves your marriage) after the 'six weeks and a day' period.

7. Final Order Granted

The court grants the final order. It's important to know that you must file for your final order within a year after your conditional order is granted, otherwise, you'll have to go through more court proceedings, causing further delays.

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With more than 1,200 people, Shakespeare Martineau has offices in Birmingham, Bristol, Edinburgh, Leicester, Lincoln, London, Milton Keynes, Nottingham, Sheffield, Solihull, Southampton and Stratford-upon-Avon.

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