

Welcome to the September 2017 Family Law Newsletter.

AWB Charlesworth Solicitors have a team of experienced Lawyers who solely specialise in Family Law. In this issue we take a particular interest in divorce and a number of the financial issues surrounding it that need to be considered and discussed at length with your chosen Solicitor. We also take a quick look at cohabitation and the legal rights you have if unmarried.

No fault divorce– does it exist?

The simple answer is no.

At present, under English law, in order to divorce, it is necessary to apportion some form of blame– either adultery or unreasonable behaviour. The exception is where couples have been living apart for more than 2 years.

In our experience, when a marriage has broken down irretrievably, couples generally want to go their separate ways with the minimum conflict, particularly where children are involved.

There have been many unsuccessful attempts over the years to amend the law by introducing a no fault divorce. A divorce can be akin to bereavement and having to apportion blame within the divorce process can increase conflict and emotional distress, before the process has really begun.

At AWB Charlesworth, we will always endeavour to achieve an amicable resolution. We will listen, understand what it is you want to achieve, explore your options and seek an early resolution. Our aim is to minimise conflict and to resolve disputes in a dignified manner.

However, protecting your interests and those of your children is our priority and immediate and firm action will be taken if necessary.



Liz Hebden– Head of Family

Securing your financial future on divorce.

There is a common misunderstanding that a divorce automatically brings to an end any financial claims that you and your spouse may have against each other.

What is a divorce?

A divorce ends the contract of marriage. The divorce itself does not extinguish your right to bring a financial claim. This can only be achieved by securing a financial order.

What is a financial order?

This is an order made within divorce proceedings dealing with the division of assets, including maintenance payments and splitting pensions. It deals with everything that you own, everything that your spouse owns and anything that you own jointly. The importance of securing a final financial order within your divorce cannot be overstated, even if the assets are relatively modest and regardless as to whether there is a verbal agreement as to how those assets are to be divided.

Such an order will provide certainty and prevent any claims in the future being made.

Securing an order.....

If you agree the terms, an order can be made by consent, usually without having to attend Court. If you cannot agree a financial settlement, you will need to ask the Court to decide.

Protection of Inherited Assets on Divorce

Family wealth within a marriage invariably increases by monies received from an inheritance. The court has a wide discretion in determining how assets should be divided on divorce and it can be difficult to accurately predict how inherited assets will be treated.

Relevant factors are:

- **The type of asset i.e. cash/property.** Cash is more likely to form part of the matrimonial assets than property which has passed through generations of the same family.
- **When the inheritance was received.** An inheritance received shortly before or after separation is less likely to form part of the matrimonial assets.
- **Whether the inherited wealth has been kept separate from other monies.** Assets that have been kept separate are more likely to be ring-fenced than those that have been 'intermingled' with other assets.

In all cases, the needs of both spouses will be a major factor and it is unlikely that inherited assets will be excluded if both of their needs cannot be met.

If you are in an unhappy marriage and have received an inheritance or are likely to do so in the foreseeable future, AWB Charlesworth are happy to advise you of your legal position.



Andrew Foulds- Solicitor

Silver Separation– Surge in Divorces for the Over 60's.

According to the Office of National Statistics, divorce rates are dropping– except for one age group, the over 60's, who are bucking the downward trend.

Elizabeth Hebden, Head of Family Law at AWB Charlesworth has noted a marked increase in the number of older couples going through a divorce.

Dubbed 'Silver Separation', the trend is attributed to a number of factors including:-

- Children may have left home and flaws in the relationship are magnified

- A greater lust for life and an increase in life expectancy that might not have been seen in this age group in previous generations.
- Women's increase in financial independence.

People simply no longer feel old at 60 and realising they have years of life ahead of them, a separation can be the start of a new life. For some however, divorce carries with it insecurity, loneliness and financial worries.

The needs of an older couple need to be carefully looked at. There will usually be significant equity in a property and substantial pension assets, but often limited income resources/ borrowing capacity.

It is important to obtain legal advice to understand your options to enable you to make choices.

If you wish to arrange a meeting, please contact a member of our Family team at one of our four offices in Skipton, Keighley, Bradford or Bingley. Contact details can be found on our website www.awbclaw.co.uk or on the back page of this newsletter.



Not married but Cohabiting? Know your rights....

Many couples choose to live together instead of committing to marriage.

There is a long established myth that a man and women living together acquire a special legal status of 'common law' husband or wife.

Such a status does not exist and it is usually only on the breakdown of a relationship that unmarried couples become aware of the limited legal rights they have.

There are a number of things you can do to protect yourself:-

- **Buying a home**– ensure that any ownership of a home is clearly set out in the deeds
- **Draw up a Cohabitation Agreement**– Matters such as financial arrangements, ownership of property and

child arrangements can be included

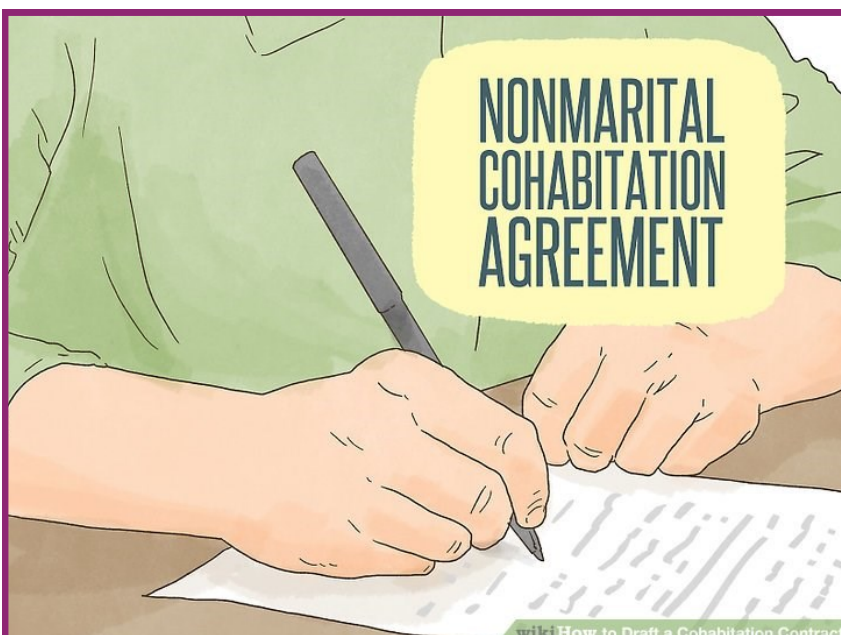
- **Make a Will**– This is imperative if you want your partner to benefit from any of your assets or have a right to live in your home.
- **Children**– If you are the father of children and you are not married to the mother, you may not automatically have parental responsibility, i.e the right to be consulted about major decisions such as schooling/ religion/medical treatment.

Each case is unique and expert family legal advice should be sought.

For advice on setting up a non marital cohabitation agreement contact :

Liz Hebden
elizabeth.hebden@awbclaw.co.uk
.uk

or **Andrew Foulds**
Andrew.foulds@awbclaw.co.uk



****Fixed Fee Preliminary Consultation****

The most important thing is that you choose a lawyer that is right for you and your case. It is essential that you feel comfortable with and confident in your representative.

Before you commit to anything, we will offer you a preliminary consultation for a fixed fee of £60 regardless of the time spent in that meeting. We will help you understand your options and provide sensitive, impartial and honest advice for you to make choices.

*"I was delighted with the friendly, professional & understanding service provided by Liz Hebden" **Rebecca Clare Douglas, Family Client, July 2017***

*"On a personal level, from day one when I first met Liz Hebden, I was very impressed by her easygoing manner which made it easy for me to express the whole mess. She has superb counseling skills, again it made the situation easier to cope with. I would have no problem recommending Liz to anyone in need." **Anon, Family Client, April 2017***

AWB Charlesworth Solicitors aim to make life easier for you. Our team will provide you with expert legal advice for your personal life and your business presented clearly and efficiently. Each with their own specialist skills, our lawyers provide friendly local support backed by skilled expertise in a comprehensive range of legal services.

- ◆ Commercial Law
- ◆ Employment Law
- ◆ Dispute Resolution
- ◆ Commercial Property
- ◆ Residential Property
- ◆ Family Law
- ◆ Wills, Trusts and Probate
- ◆ Agricultural Law
- ◆ Inheritance Tax

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**For more information visit our website at: www.awbclaw.co.uk
01756 793333/ 01274 511352**

MEET OUR FAMILY LAW TEAM

Liz Hebden
Head of Family



Elizabeth.hebden@awbclaw.co.uk



Andrew Foulds
Solicitor

Andrew.foulds@awbclaw.co.uk

• Skipton • Bradford • Keighley • Bingley