

## FAMILY LAW CLINIC



DISCOUNTED RATES FOR ALL POLICE FEDERATION MEMBERS

Meet our experienced family lawyer for a **FREE** initial consultation at our Federation Surgery.

Alternatively please contact our office for more information or to book an appointment.

 **0151 928 8597**

 **family@harveyhowell.co.uk**

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FOR ALL YOUR FAMILY NEEDS CONSULT OUR TEAM OF EXPERTS FOR ADVICE UPON:

- // Divorce
- // Cohabitee separation
- // Financial issues upon the breakdown of a relationship
- // Protecting your police pension
- // Children disputes
- // Pre and post nuptial agreements
- // Cohabitation and separation agreements
- // Statutory Declarations and Affidavits for couples getting married abroad

FOR THE COMPLETE FAMILY LAW PACKAGE CONSULT HARVEY HOWELL

# HARVEY HOWELL SOLICITORS ARE RECOGNISED EXPERTS IN THE, OFTEN CONFUSING, FIELD OF FAMILY LAW

DURING THIS ARTICLE THEY WILL TAKE YOU ON A WHISTLE STOP TOUR OF THE FAMILIAR AND THE UNFAMILIAR SITUATIONS THAT YOU MAY FIND YOURSELF IN AT SOME POINT DURING YOUR LIFE.

Whether you are married or living with a partner a separation is an upsetting and stressful time and is a time littered with uncertainties. Harvey Howell can guide you through this maze with compassion and a wealth of experience.

## BREAKING THE MYTH OF THE COMMON LAW WIFE



There is no such thing as a common law wife! Take for example Rob and Claire, they are a young couple in love, having dated for 2 years now want to set up home together and purchase their first property. The property is purchased in both their names as joint tenants. Fast forward 5 years, their relationship has broken down and Claire is claiming that she should stay in the property and retain all the equity as Rob has a good job and a good pension and over the duration of their relationship they have holidayed in luxurious resorts. She on the other hand has maintained her part time beauty work and believes she should be compensated for the loss of lifestyle she has grown accustomed to; after all she is his common law wife!

Under the Law of Trusts and Equity she is entitled only to 50% of the equity in the property she has accumulated and no more!

The common pit fall unmarried couples fall into happens at the time of purchase when "love really is in the air". The property is purchased in joint names regardless of the contributions made. It is only upon separation that parties feel financially aggrieved. It is by then often too late to retrieve the contribution made. Make sure you obtain separate legal advice prior to signing on the dotted line!

Cohabitation Agreements can assist in this regard; although not legally binding they can assist in determining the division of the assets upon separation.

## SEARCH FOR EQUALITY

The laws governing Divorce are somewhat different. Whilst with cohabiters the only issue is that of property(ies) the parties own, with married couples everything is up for grabs so to speak.

A word of warning... the Court does not financially penalise the party who was the cause of the marriage breakdown. The injured party is not compensated!!!

Every asset, including income, property and pensions are thrown into the "Matrimonial Pot". The starting point is then to share equally as the premise of marriage is one of sharing. Once this basic mathematical sum takes place the solicitor then looks to strike an equality and balance by applying a numbers of factors. The main aim is to provide for for each party in the short and long term.

The biggest concern and the most frequent question asked is "How can I protect my Pension"

This is the one asset that one person alone has accrued due to their hard work. A Pension cannot be likened to "cash savings". It is therefore important to obtain guidance from another type of expert; namely a Pension Actuary. A referral can be made setting out the terms of their instruction. Their job is to assess:-

- What proportion of the Pension Pot was accrued prior to marriage and is therefore protected
- How much is the other spouses pension(s) pot and to calculate the difference
- Calculate the eventual capital and the eventual income

Every attempt is made during this stressful time to achieve a suitable outcome without the need for Court

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Proceedings. Any agreement reached is embodied in a Consent Order and filed at Court.

The terms of which are approved by a Judge and are legally binding upon BOTH parties. Whilst agreed orders are final and legally binding they are achieved on the presumption that both parties have disclosed full details of their financial position. We now have recent case law that of Gohill v Gohill and Sharland v Sharland, both of which stipulate that a case can be re-opened if one person committed a fraud by failing to disclose assets. The financial procedure following divorce is a complicated process and one that should be approached with caution.

## CHILD'S PLAY

From the moment a child is born your life changes forever. Every child brings joy and happiness but in some cases can bring sadness.

Upon a separation it is vitally important a routine is put into place for a child to have regular and meaningful contact with their absent parent. Unfortunately and in some situations this does not always happen.

The Law has taken great strides in recent years to address this issue. Every child deserves to have a relationship with both parents.

We now have a system called A Child's Arrangements Order.



The premise of this is one of equal footing. If a father is registered on the child's birth certificate then they have joint Parental Responsibility for that child. In essence a right to be involved in their life and a right to have an input on decisions made for that child.

In some situations an absent parent is refused contact with their child or children and this can lead to very distressing times. The new court order now gives the Court the right to impose fines upon reluctant and reticent parents who are unwilling to cooperate with the contact regime. In extreme cases the Court can impose imprisonment.

## HARVEY HOWELL CAN OFFER ADVICE UPON ALL AREAS OF FAMILY LAW AND GUIDE YOU THROUGH THE COMPLICATED AND STRESSFUL PROCESS



**HARVEY HOWELL**  
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