

Miscellaneous Family

Joint Property

Many couples own property (houses etc) in such a way if that either of them were to die, the property will automatically belong to the survivor of them, mortgage free, provided the life/endowment policy premiums were paid up to date. Separating couples may no longer want this, and to avoid this happening, you can instruct us to sever the joint tenancy in the property. This involves simply signing a form and sending your spouse a copy, which should be receipted and returned and then registered at the Land Registry. You should then make a will in which you can give your share of the property to whomever you like.

The disadvantage of severing the joint tenancy is that once you have done so, you may not automatically inherit your partner's half share. If he or she does not have a will, then whilst you remain married, his or her share will pass to you under the intestacy rules. If you are not married, or are divorced, then it will pass to his or her next of kin. If your partner makes a will, you have no control over his or her half share of your house.

If you would like us to sever the joint tenancy in your property, please give us your specific instructions to do so. It would be useful to have your mortgage account number and the Land Registry Title Number for your property.

Wills

If you don't have a will

If you have no will, you die intestate, and your estate will be divided between your next of kin in accordance with the intestacy rules. If you are married, then whether or not you are separated, your spouse will receive the majority, if not all, of your assets. If you are not married, it is unlikely that your partner will receive anything since he or she is unlikely to be your next of kin.

If you do have a will

You should always review your will whenever your family or financial circumstances change. If this is now, then consider whether the will that you made under different circumstances is still appropriate. If it isn't, what provision do you want to make in its place? Don't forget that whatever your circumstances, if you have an ongoing obligation to maintain a partner, child, or anybody else, and you do not make provision for them in your will, then they may have a claim under the Inheritance (Provision for Family and Dependence) Act 1975.

Please let us know if you would like some further information on Wills, and we can provide your contact details to our private client team.

Death in Service Benefit/Widows Pensions/Life Policies

Now is the time to consider whether the provision that you have made for your dependents is appropriate. In many cases, this needs to be reviewed when family circumstances change. You are advised to contact your employer and your insurance companies, for confirmation of any nominations or assignments of benefits that you may have made in the past, and for information and advice about how any past decisions that you have made can be altered.

Change of Name Deeds

Many people take the name of their partner or spouse in a long-term relationship/marriage. This may no longer be exactly as you would wish, and many wives in particular wish to revert to their maiden names on divorce. If you would like us to prepare a Change of Name Deed, please let us know and we will be pleased to help.

The position is a little different regarding children; the name of a child can only be changed where everybody with parental responsibility for that child, consents. This means that in most cases, both parents need to sign the change of name deed. If one parent refuses, or cannot be found, then an application to the court can be made for a specific issue order. The court will then decide whether the name of the child can be changed. Courts are usually reluctant to change the name of a child on the basis that that severs the child's link with its birth family.

Mediation

Mediation is an alternative to court proceedings. It is a confidential process which may help you resolve issues relating to the finances or matters relating to your children. It will still be necessary for you to give full financial disclosure in the same way as for court proceedings if assets are involved; however, it does give you the chance of having mutual and impartial help to reach a solution with your partner. The advantage of mediation is that it is cooperative rather than confrontational, and therefore involves less stress and less costs. Agreements reached through the mediation process can be incorporated into a consent order to finalise the ownership of the assets of a marriage. We can make referrals for mediation for you at any time. For mediation to work, both parties must agree to mediate and attend sessions together. Mediation is being used increasingly to resolve family matters and, indeed, it is now a requirement that before making an application for public funding, the applicant must attend an appointment with a mediator to establish whether the case is suitable for mediation or not. Please let us know if we can give you further advice about this.

Round Table Meetings

A round table meeting is a similar process to mediation but both parties have their solicitors present. This enables you to have legal advice alongside the negotiations. The focus is on encouraging the parties to settle, to reduce time and fees spent in lengthy court proceedings. This could be an option if you are struggling to reach an agreement with your ex-partner about the matrimonial finances on divorce, and/or arrangements for your children.

If you would like more advice about this, then please do not hesitate to ask.