



Family Law in the Cayman Islands

DIVORCE IN THE CAYMAN ISLANDS

Unlike the UK, parties to a marriage may only petition for divorce upon the second anniversary from the date of marriage unless it can be shown that staying married during that two-year period would cause exceptional hardship.

The decision to divorce will inevitably be an emotional period which is why we will always try to deal with your situation sensitively. Whether your individual circumstances are straightforward or a little more complex, our experienced team will be able to combine practical and intelligent advice with decisive action to achieve the best results for you.

We can advise whether you have grounds for a divorce and on the law and process. Additionally, if there is any reason you think your marriage may be void, we can advise you on nullity proceedings. In all the above scenarios, we will advise you on ancillary matters such as arrangements for any children and financial claims.

CHILDREN IN THE MIX

The breakdown in a relationship will always have an impact on any children of the family. Issues such as contact for the non-resident parent and maintenance are the most common areas of dispute but separation in a relationship may raise an array of other factors which need to be determined.

Particular skills are required to resolve issues with the minimum of conflict. Dealing with matters relating to children requires experience and sensitivity on the part of your adviser. We will always look at the bigger picture; guide you in a way to reduce animosity and try to build a stable platform for your child to flourish avoiding, as far as possible, the negative effects of your relationship breakdown.

We feel that parents should consider trying to resolve any differences by constructive dialogue whether by way of attorneys or in mediation; after all, it may be many years before the children are old enough to make decisions for themselves and therefore parents will need to co-operate with each other at some stage. It is clearly better to do so from the start albeit that the initial stages of a breakdown in a relationship are likely to make such an approach, difficult.

We have considerable experience in matters related to children including:

- Contact Orders and Residency;
- Maintenance;
- Private child care law;
- Adoption;
- Specific issues; and,
- Relocation and child abduction.

DOMESTIC VIOLENCE

Unfortunately, domestic abuse occurs in relationships between people of every class and culture. 'Violence' is not restricted to physical abuse, it is any form of behaviour that causes the victim to feel intimidated and bullied.

We have clients who have been abused in this way for many years and have suffered in silence. It often takes a lot of courage to confront the problem but they have come to a point in their lives where they feel compelled to take steps to protect themselves.

It should be remembered that domestic violence is not just perpetrated by a male party. We have seen an increase in male victims who historically have been very reluctant to take action against female partners.

FINANCIAL RELIEF

Marriage Breakdown

Whatever the value of assets involved, our policy is always to promote settlement following voluntary disclosure and negotiations where possible. In the event court proceedings are required, then we will represent you thoughtfully and diligently.

The court has a wide discretion to redistribute income and assets on marriage breakdown so it is never possible to predict precisely the award a court would order.

FINANCIAL RELIEF (CONT'D)

To reduce costs and conflict, it is important that:

- the issues are narrowed as much as possible;
- a constructive approach is adopted; and,
- a compromise is sought.

We will not foster false hope or unrealistic expectation and nor do we shy from giving honest advice even in circumstances when we know it will be unpalatable.

Financial Claims (unmarried partners)

It is important to dispel the myth of the 'common law wife' - there is no such thing, you are either married or not. Your rights and financial claims are entirely different depending on such status.

Many couples live, buy homes and have children together, without a thought to the implications in the event of a relationship breaking down.

If you own a home with someone to whom you are not married, you have to rely on the law of trusts in making any claim for an interest in the property:

Joint Legal Owner of a Property

The presumption in law is that you have a 50% interest in the property unless the title deeds specifically state otherwise. However, you may feel there are reasons why you or your former partner should have a greater or lesser share, and we would be happy to advise you on your entitlement and how it can be realised.

HSM FAMILY SERVICES

We deal with all aspects of family law including:

- Divorce and separation;
- Financial relief and enforcement of maintenance;
- Guardianship and receivership Orders;
- Private child law;
- Child relocation;
- Domestic violence; and,
- Mediation.

We understand that issues involving the family are sensitive and will help you through the legal process; and, if appropriate, negotiate settlements which work for all parties - particularly any children involved.

MEDIATION

We actively promote family mediation as a method of dispute resolution.

A mediator is a neutral person who is trained to help people talk so that the parties can better understand their problems and reach an agreement. A mediator does not take the side of either party, and does not pass judgment.

The function of the mediator is to manage and facilitate a process to help the parties to reach a solution that meets their needs.

KEY CONTACT



Lisa Donalds
Associate
Tel: +1-345-815-7437
ldonalds@hsmoffice.com

HSM

This publication is intended only to provide a summary of the subject matter covered. It does not purport to be comprehensive or to provide legal advice. No person should act in reliance on any statement contained in this publication without first obtaining specific professional advice. Alternative solutions also exist which may better suit the requirements of a particular individual or entity.

