

Family Law Fact Sheet

What is family law?

Family law deals with a wide range of issues that arise in our family lives and personal relationships. It primarily focuses on helping couples make arrangements for their children and their finances when they decide to divorce or separate but can also cover issues such as surrogacy, adoption, cohabitation and more.

What type of topics are covered by this area of law?

- Divorce
- Surrogacy arrangements
- Child arrangements
- Child abduction
- Finances
- Domestic violence
- Pre and post-nuptial agreements
- Gender recognition

What does Family law involve?

Family law can broadly be divided into children work and financial work, as these proceedings are separate to one another. Children work can involve anything from

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sorting out day-to-day contact disputes to dealing with applications for one parent to relocate overseas with the children. Financial work can involve reviewing financial information, preparing schedules of assets and considering how much capital and income each party should reasonably receive. Family law can also involve issues around jurisdiction where a parent has connections with another country. As family law involves dealing with disputes, solicitors can quite regularly end up going to court to get directions from a judge about how to best resolve issues.

What skills does a Family lawyer need?

Family lawyers need to have strong communication skills and must be personable and level-headed. You need to be able to empathise with the client where necessary but also be able to take an objective view on the situation and give clear advice. Family lawyers must be practical and reasonable as often in family cases the positions of the parties are polarised and emotions are running high: it is the lawyer's job to give sensible advice about a way forward for the parties.

Key pieces of law

The Children Act 1989 is the key source of law in relation to children, their upbringing and welfare. The overriding principle is that the welfare of the child should always be the paramount consideration above all else.

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The Matrimonial Causes Act 1973 (MCA 1973) is the core legislation relating to divorce and financial proceedings. Civil Partnership Act 2004 (CPA 2004) (allows same sex couples to form registered civil partnerships).

Interesting new developments

- **Civil partnerships for all?**

In the case of *R (Steinfeld and Keidan) v Secretary of State for International Development* [2018] the Supreme Court ruled in favour of civil partnerships for all and encouraged the government to change the law to enable heterosexual couples to have the right to enter a civil partnership instead of getting married.

- **No fault divorce?**

There is much debate around whether the law should be reformed so that there is 'no fault divorce' i.e. you no longer have to satisfy one of the five reasons for divorce. The Court of Appeal judgement in *Owens v Owens* [2017] has further drawn attention to this. Whilst the wife's appeal (challenging the court's refusal to grant her a divorce) was dismissed, there were strong arguments advanced that the law no longer reflects modern day realities and that no fault divorce is called for.

- **Maintenance for life?**

The Court of Appeal's judgment in *Waggot v Waggot* [2018] signals a move away from the financially weaker party being able to get a 'meal ticket for

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life' and rather favours a move to ensure parties have greater financial independence post-divorce.