

## A1 Marriage and civil partnership

**Marriage** is a formal contract voluntarily entered into between two persons to live together in a relationship for life to the exclusion of all others. Both heterosexual and homosexual couples can get married. It creates obligations on each party to financially support the other. Each spouse also gets home rights to their property.

**Civil partnership** is a formal legal relationship between same-sex partners and heterosexual partners who will acquire the status of civil partner. This grants rights, responsibilities and obligations similar to those of married couples. The law is contained in the Civil Partnership Act 2004.

## A2 Cohabitation

This is just another way of saying a couple are living together. You might be able to formalise aspects of your status with a partner by drawing up a legal agreement called a cohabitation contract or living together agreement.

## A3 Legal rights and obligations of marriage/civil partnership and cohabitation

The ownership of shared possessions can be quite complicated but there are some general rules which apply. For example, property you owned before you started living with your partner remains yours and the person who bought an item generally owns it. An item will be owned jointly if you bought it using a joint account. If you give property to your partner, it will belong to your partner. However, this can be difficult to prove.

You and your civil partner are each entitled to acquire and to keep any land, property, savings or investments in your own right during your civil partnership. If you owned any property before you registered your civil partnership, this will usually continue to be seen as yours. However, if your relationship breaks down, any property owned by you or your partner will be taken into account when arriving at a financial settlement.

## B1 Nullity

Annulment (sometimes known as 'nullity') is a different way of ending a marriage. Unlike divorce, you can apply for annulment in the first year of your marriage or any time after. However, if you apply years after the wedding, you might be asked to explain the delay.

You'll need to show that the marriage:

- was never legally valid ('void')

- was legally valid, but meets one of the reasons that makes it 'voidable'

## B2 Divorce and dissolution

Dissolution is the formal, legal ending of a marriage by a court, commonly called a divorce. A dissolution of marriage completely ends your legal relationship as spouses and ends your marriage.

## B3 Judicial separation

A judicial separation is a formal separation which is sanctioned by the court. It is more than a couple deciding to live apart and it is about more than just ratifying the separation. It enables the court to make orders about the division of money and property, similar to the orders which can be made on divorce, without actually terminating the marriage.

## C1 Financial orders available to the court on divorce/dissolution

A financial order is a legal document issued by the court that sets out how your financial assets, such as property, savings, pensions, and capital, will be divided following a divorce. These orders can cover a wide range of issues, including the division of assets, child maintenance, and spousal support.

## C2 Factors the court will take into account when deciding what order to make

These factors include income and earning capacity, financial needs and responsibilities, the standard of living, age and length of the marriage, disabilities, contributions of the parties, conduct, and loss of benefits. Each case is unique, and the weight given to each factor depends on the specific circumstances

## C3 Orders for children

A Child Arrangements Order is an order that regulates with whom a child is to live, spend time or otherwise have contact, and when a child is to live, spend time or otherwise have contact with any person.

# Unit 4: Aspects of Family Law

## D1 Parenthood and parental responsibility

Parental responsibility is defined in s 3(1) Children Act 1989 as being:

"all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property".

The term 'parental responsibility' attempts to focus on the parent's duties towards their child rather than the parent's rights over their child.

- Mothers automatically have parental responsibility.
- Fathers who are married to or in a civil partnership with the mother automatically have parental responsibility and will not lose it if they are divorced or the civil partnership is dissolved.
- Second female parents who were married to or in a civil partnership with the biological mother at the time of conception (unless conception was the result of sexual intercourse or the wife or civil partner of the biological mother did not consent to the conception)
- Fathers who are not married to or in a civil partnership with the mother do not automatically have parental responsibility.
- Step-fathers and Step-mothers do not automatically have parental responsibility.
- Grandparents do not automatically have parental responsibility.

## D2 Children's rights

These include: the right to life, survival and development. the right to have their views respected and to have their best interests considered at all times. the right to a name and nationality, freedom of expression and access to information about them.

Across the UK there are many laws which aim to keep children safe and protect their rights. These laws:

- ensure children's voices are heard
- set out when a child can take part in various activities
- make sure children have access to education
- provide for children having a safe home
- provide support for children who need to leave home
- make sure children are safe if they decide to get a job
- make sure children's personal information is safe.

## D3 Disputes over children

Child Arrangements Order Deciding where the child is to live and with whom. It also decides access and contact arrangements.

A Specific Issue Order This is used to settle particular disputes where parents cannot agree on important issues such as schooling, medical treatment or religion.

A Prohibited Steps Order An Order which prevents a parent from taking any course of action with their child (for example, taking the child out of the country) without the express consent of the Court.

A residence order is a court order 'settling the arrangements ... as to the person with whom a child is to live.' This article is written from the perspective of a grandparent obtaining a residence order, but residence orders are also used after divorce or separation or in stepfamilies where a residence agreement is not made.

Welfare principle (paramountcy principle)

The principle that, when making a decision in relation to a child's upbringing (typically, deciding with whom the child should live or have contact), the child's welfare must be the court's paramount consideration (Children Act 1989 s 1).

Principle of 'No Delay'

Where there is risk of harm or abuse, swift action must be taken and an effective response made. If it appears that the person is experiencing, or at risk of, abuse or neglect, a safeguarding enquiry must be carried out to determine with the person what action, if any, is necessary and by whom.

Principle of 'No Order'

Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.