



For Life

THEME - NEW BEGINNINGS



When you need legal advice for your family, we have a specialist solicitor that can help.

The law can be complex and confusing, but our lawyers will help you and your family find a solution. We deliver a personal service, will keep you informed every step of the way and make sure you understand the implications of anything we do on your behalf.



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New beginnings

Collaborative law offers a fresh way of approaching divorce. Francesca Cozens explains more.

Declaration of trust

An essential document for anyone who is considering a joint property purchase outside of marriage.

Inheritance dilemmas

Second marriages are on the rise and with this increase comes the dilemma surrounding inheritance. Ben Parmenter offers useful advice.

New beginnings

a fresh approach to divorce

The word 'divorce' often frightens people. It is a word enshrined in negative connotations, but what if there was a new way of looking at relationship breakdown? One which offers solutions and out of the box thinking with clients in the driving seat? It does not seem such a frightening concept if you remain in control, rather than a court making decisions about your family finances and future on behalf of you and your family.

Often the best solution for couples is the solution that they work out together. At its simplest, that is what the collaborative process is all about – reaching solutions together, amicably.

What is collaborative law?

In the collaborative law process both parties have a collaboratively trained, expert family solicitor. Rather than conducting negotiations by letter, telephone or through the court, discussions take place face-to-face by way of four-way meetings.

Collaborative law requires a shared commitment to avoid litigation. It provides couples with an opportunity to work together with their collaborative lawyers to find solutions that enable them and their family to move forward in a positive way.

How does collaborative law work?

At the beginning of the process the couple and their lawyers are required to sign a participation agreement. This is a really important agreement as it confirms that everyone is going to work together and if the process breaks down that both solicitors will stop acting. This provides the couple with reassurance that everyone is working together to ensure that there is an agreement.

There are many benefits to collaborative law, including that you work together with your ex-partner to reach an outcome that suits all the needs of the family. It can also result in outside-the-box thinking, where more creative solutions are reached because the four people work together.

Clients report that they are more satisfied with the outcome of collaborative law as they are in the driving seat

Clients also report better communication with their ex-partner and say that they feel the process is a 'happier' one.

If you are looking to buy a property with someone and will be contributing unequal amounts you may be considering a Declaration of Trust. But what is it, and is it worth it?

Declaration of trust

is it worth it?

A Declaration of Trust is a legal document that confirms the actual beneficial ownership in a property, whether this be 60:40 or another any other division. It sets out the financial arrangements that the parties have agreed and entered into.

These types of documents are extremely important whether you are unmarried or are simply purchasing a property with a friend and have contributed unequally. The

document enables you to record that the property is held as tenants in common; it sets out the proportions you are each contributing and how the property is to be divided should the unplanned arise.

Although it can be seen as unromantic for a couple to put a document like this in place, it is always worth ensuring your interest is protected not just for yourself but ultimately for your loved ones.

Why choose collaborative law?

- You can focus on what is important to you and resolve matters quickly.
- If you have children, they can benefit from the process as it will focus on the children first. There can be improved communication throughout the process to assist in laying foundations for healthy relationships afterwards.
- It can send a powerful message to children that their parents are able to resolve differences constructively together.



- All discussions take place on a face-to-face basis, leading to less possibility of misunderstanding.

Collaborative law is different to traditional negotiations as it focuses on mutual support and encouragement.

Collaborative law is not suitable for everyone, but at Birkett Long one of our team of specialist solicitors will let you know if they think it might be right to you.

For a free 15-minute phone consultation, contact Francesca Cozens on 01245 453843 or francesca.cozens@birkettlong.co.uk.

Should you not have a Declaration of Trust in place, you may find yourself in a vulnerable situation. For example, imagine you have contributed more to the repayments on the property than the other party. This could leave you in a complicated situation where you need to try to establish the extent of your interest in the property and how much you are owed.

In our opinion, a Declaration of Trust is certainly worth considering. Come and talk to us about how such a document is drawn up and what it might offer you. We will be pleased to arrange a free 15-minute telephone consultation with one of our expert property lawyers.

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Claire Read

partner and head of
private client department

Claire is noted as a leading lawyer and the 'go to girl' by an independent legal directory, and her expertise is often called upon to speak on BBC Essex Radio on topical issues. Recently Claire has talked on the topics of wills, protecting assets in second marriages and reforming the laws of wills. Here at Birkett Long our expertise on these topics are often called upon by the likes of the BBC.

Claire specialises in wills, inheritance tax mitigation work, trust creation and administration and probate work (administration of estates). She also advises clients who are of foreign domicile and those that have property abroad.

Claire is a full member of STEP (the Society of Trust and Estate Practitioners) and Chair Person of the Essex Branch of STEP. STEP is the global professional association for practitioners who specialise in family inheritance and succession planning.

Should you have any questions on these issues, please do not hesitate to call Claire or any member of her team.



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Second marriages... ...an inheritance dilemma

The number of people marrying for the second or even third time is higher than ever, but it can bring difficult decisions. Second marriages often leave spouses torn between the need to provide for their present partner and ensure that children from their previous marriage receive an inheritance.

A typical arrangement would be that when the first spouse dies, they leave their estate to their surviving partner. Upon his or her death, everything is passed to their children. Most would be happy with this and no difficult decisions arise.

However, second marriages create tough choices. You may want to leave your entire estate to your surviving spouse (particularly if your home is the main asset), but this puts your children's inheritance in a vulnerable position. If you leave your estate to your spouse it will form part of their assets and could pass to beneficiaries of their choosing when they die. Your spouse is also free to change their will at any time.

Understandably this is a difficult subject to broach with your husband or wife as it raises awkward questions of trust. However, there are other issues that you should consider. Your spouse may have very persuasive children, or meet a new partner. Even creditors of your surviving spouse, such as local authorities for care home fees, can threaten your children's inheritance.

With careful will planning, however, you can have the best of both worlds. By using a special type of trust called a life interest trust, your surviving spouse can be provided for during their lifetime and then your estate automatically passes to your children, or other beneficiaries chosen by

you. This method can be very effective if your main asset is your family home. Upon your death you leave your property - or your share in the property - to your surviving spouse for the rest of their life, or until remarriage if you wish. Upon their death or remarriage, the property goes to your children. The will can also stipulate that the surviving spouse may move to a new property so long as it is on the same terms.

This is a useful way to protect your partner's and your children's inheritance. It is vital, however, to seek legal advice to ensure that no complications have been overlooked, as these could result in distress and financial loss to your loved ones.

There are many other techniques that can be used in your will to ensure that your estate is dealt with in the way you want. Whatever your concerns, we are confident that we can find a way to help you achieve security for your loved ones and peace of mind for yourself.

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