



# Family Law

BARLOW ROBBINS LLP  
Solicitors

# About Barlow Robbins LLP

Barlow Robbins LLP was formed by the merger of the two well regarded and long established legal practices of Barlows and Robbins Olivey in 2004. It is now one of the larger law practices in the South East region with a thriving portfolio of private and commercial clients.

Large, however, does not mean impersonal. We take great pride in our personal service and the way in which we deliver legal advice, and in our ability to listen, to understand and to manage our clients' affairs proactively.

As a practice, we provide a full range of legal services. This means that our Family Department can draw on the expertise of colleagues in other specialist areas. Our lawyers work together across the different departments in the firm and we aim to provide an integrated approach to our clients' affairs and deliver a high quality service.

We have one of the best private client teams in the South East. Most people, at times of change in their lives, need the services of property lawyers and advice regarding Wills, Trusts and Inheritance Tax Planning, as well as advice on separation and divorce; we can provide this. In addition we have a strong commercial team who can advise clients with family or other business interests, contractual or employment problems.

We also have professional connections with many other experts and advisors such as barristers, accountants and financial advisers including pension experts.

## Family Department

Family breakdown is one of the most stressful events many people go through in the course of their lives. We can advise and guide you through the process, helping you to concentrate on rebuilding your life and, particularly where children are involved, on maintaining family relationships without unnecessary acrimony and damage.

At Barlow Robbins LLP we have a very strong team of experienced solicitors practising in Family Law. Our solicitors have experience of all types of cases, including those with international aspects, corporate or substantial assets or difficult issues concerning children. We advise not only married or divorcing couples, but also those who are in Civil Partnerships and couples who are not married.

Our Family Department advises not only on issues of family breakdown, but also how best to arrange your affairs at the start of a relationship, for example through cohabitation or pre nuptial agreements.

We are committed to resolving family issues in a constructive way in accordance with the Code of Practice of Resolution (formerly The Solicitors Family Law Association). Above all, we never lose sight of the fact that every case is different and we aim to provide a highly professional service tailored to your circumstances.

# Our Family Services

All our solicitors advise on the full range of family issues which can arise, and in addition some of our solicitors specialise in particular areas such as difficult issues relating to children, cases with international and jurisdiction issues, and the law relating to unmarried couples. Our Family Team includes trained Collaborative Lawyers and Mediators.

We act for clients from all walks of life and can advise on:

- Separation and divorce
- Emergency measures such as non-molestation orders, injunctions safeguarding assets and interim maintenance provision
- The family home
- Issues concerning children
- Pensions
- Financial issues on divorce, including complex and high value financial matters, and cases involving business assets and trusts including taxation issues
- Rights of unmarried couples on separation
- Cohabitation and pre nuptial agreements
- Civil Partnerships

The following pages set out more information about the services we can offer.

## Separation and Divorce

The mechanics of the process of separation and divorce may appear straightforward at first sight, but procedural rules are often complicated and we can guide you through the process so that the stress and potential acrimony of divorce proceedings can be minimised.

The difficulties tend to lie in resolving the related practical issues stemming from family breakdown such as arrangements for the children and money matters. It is important to understand that the divorce process does not automatically resolve these issues. Obtaining a divorce typically takes about 4-6 months, however, resolving financial matters and child care arrangements may take longer.

Even if there are no grounds to issue divorce proceedings straight away or you decide to separate first and deal with the formalities later, it is important that you take legal advice immediately regarding the finances and that you do not sign any documents or take any steps before you have spoken to one of our Family Team.

If you are finding it difficult to cope following the breakdown of a relationship, your GP may be able to help. RELATE, the relationship advice service, can help you to cope with the emotional consequences of your separation. We can also refer you to a number of other organisations who may be able to help in your particular circumstances.

## Emergency Measures

If your spouse or partner is being abusive, you should take immediate advice. The Court has wide powers to prevent this behaviour and will take it seriously.

In some cases it may be necessary to obtain a freezing order to prevent assets being disposed of before the family finances can be properly dealt with. We can advise when this is appropriate.

## The Family Home

The family home is central, and one of the first decisions you may need to make is whether one or other of you will be able to remain there, or whether it will have to be sold. This does, however, need to be addressed in the context of an overall financial settlement and you should always take advice before taking any steps such as putting the house on the market. It is not generally advisable to deal with assets such as the house piecemeal and we will need to consider the whole picture.

There may also be issues about who will be responsible for paying the mortgage and other outgoings until financial matters are resolved.

Most couples own their home jointly, but if it is registered in the name of your spouse or partner only, you should take immediate advice as we may need to protect your interest in the house, whether you are married or unmarried.

## The Children

In any family proceedings, the welfare of the children is the paramount consideration.

If a couple can agree with whom the children will live following separation and how much time they will spend with each of their parents, there is generally no need for the Court to be involved.

However, if the parents cannot agree what is best for the children, they may need help to resolve these issues. We frequently advise our clients to consider going to mediation in such circumstances so that issues can be resolved constructively in a non-confrontational setting. This often has the advantage that parents are able to establish or build on a good working relationship for the future, so that the impact of the family breakdown on the children is minimised.

In some cases, mediation is unsuitable or does not resolve fundamental issues, and it may be necessary to make an application to the Court for an order for residence, contact or to deal with other issues such as the child's education.

We will help you to resolve any disputes that arise concerning arrangements for the children and always endeavour to approach such disputes constructively with the children's best interests in mind.

## Financial Issues on Divorce

Resolving financial issues is often the most difficult part of dealing with the arrangements to be made following a separation or divorce. English law does not provide a set formula or structure setting out precisely how assets are to be divided on divorce; every case is different and you will need advice on what is likely to happen in your particular circumstances.

The first decision you may need to make is how you would like to approach this. Financial matters can be resolved by:

- Negotiation
- Court proceedings
- Alternative routes such as Mediation and Collaborative Practice

We can advise which approach will be appropriate in your case. There is further information about Mediation and Collaborative Practice later in this booklet.

Even if neither of these routes is appropriate in your case, we follow the Code of Practice of Resolution and will always endeavour to resolve financial matters in a constructive and non-confrontational way. In most cases, we will recommend voluntary financial disclosure and negotiation, and even if it becomes necessary to issue an application to the Court to deal with financial matters we will continue to negotiate and try to reach an early settlement cost effectively.

You need to be aware that:

- You must keep a close eye on the state of your own and your spouse's finances. If you have any loans or debts, seek advice before they get out of hand.
- Under no circumstances should you sign any documents relating to financial matters without first contacting us.
- The divorce process does not automatically resolve financial issues and in most cases it is essential to obtain a final financial Court Order so that there is no possibility of further financial claims being made in the future.
- You do not have to wait for financial arrangements to be sorted out in order to finalise the divorce but in many cases it is advisable, particularly where there are pension funds.
- If you wish to remarry before financial matters are resolved, you will lose your right to make an application to the Court if a financial settlement cannot be reached by agreement.

You should understand that you and your partner are under a duty to disclose to each other full and frank details of your financial position. This includes income, outgoings and capital – such things as savings, shares, premium bonds, the value of any property you own, and interests in trust funds or foreign assets. It also includes the value of business assets and pension funds; valuing such assets usually requires expert advice and we are experienced in obtaining and assessing such advice and gauging its impact in high net worth cases.

If you believe that you have been able to sort out the finances yourselves or have reached agreement in mediation, we will be able to advise whether the agreement you have reached is fair in the context of the current law and likely to be approved by the Court. We can draw up any documentation necessary such as a separation agreement or a consent order for the Court's approval.

We can also deal with implementing the terms of a financial settlement, such as dealing with the transfer of the family home or other assets and pension sharing.

## Pensions

If you or your spouse has a pension fund, you will need advice about this. There are various ways of dealing with pension funds on divorce: the fund can be divided between you, an order can be made that the fund pays part of the pension income to the non-member spouse, or the value of the fund can be offset against the value of other assets. We can advise what would be appropriate in your case and deal with the implementation of any order. Pension sharing regulations are very complex and legal advice is crucial.

## Unmarried Couples

Unmarried couples do not have the same rights as divorcing couples on separation. Different laws and procedures apply. This area of law is developing rapidly and it is important that you take legal advice at an early stage if you are unsure of your rights.

If you believe you are entitled to share a property which is in your partner's sole name, it may be possible to protect your interest by registering a restriction at the Land Registry. You may also have the right to occupy the property even if your name is not on the deeds.

Your home may be registered in joint names, and this may suggest that you are entitled to half the equity. However, this may not be the whole story and much will depend on what has been agreed and what arrangements there have been while you have owned the house.

If there are children living in the house, their interests must be considered.

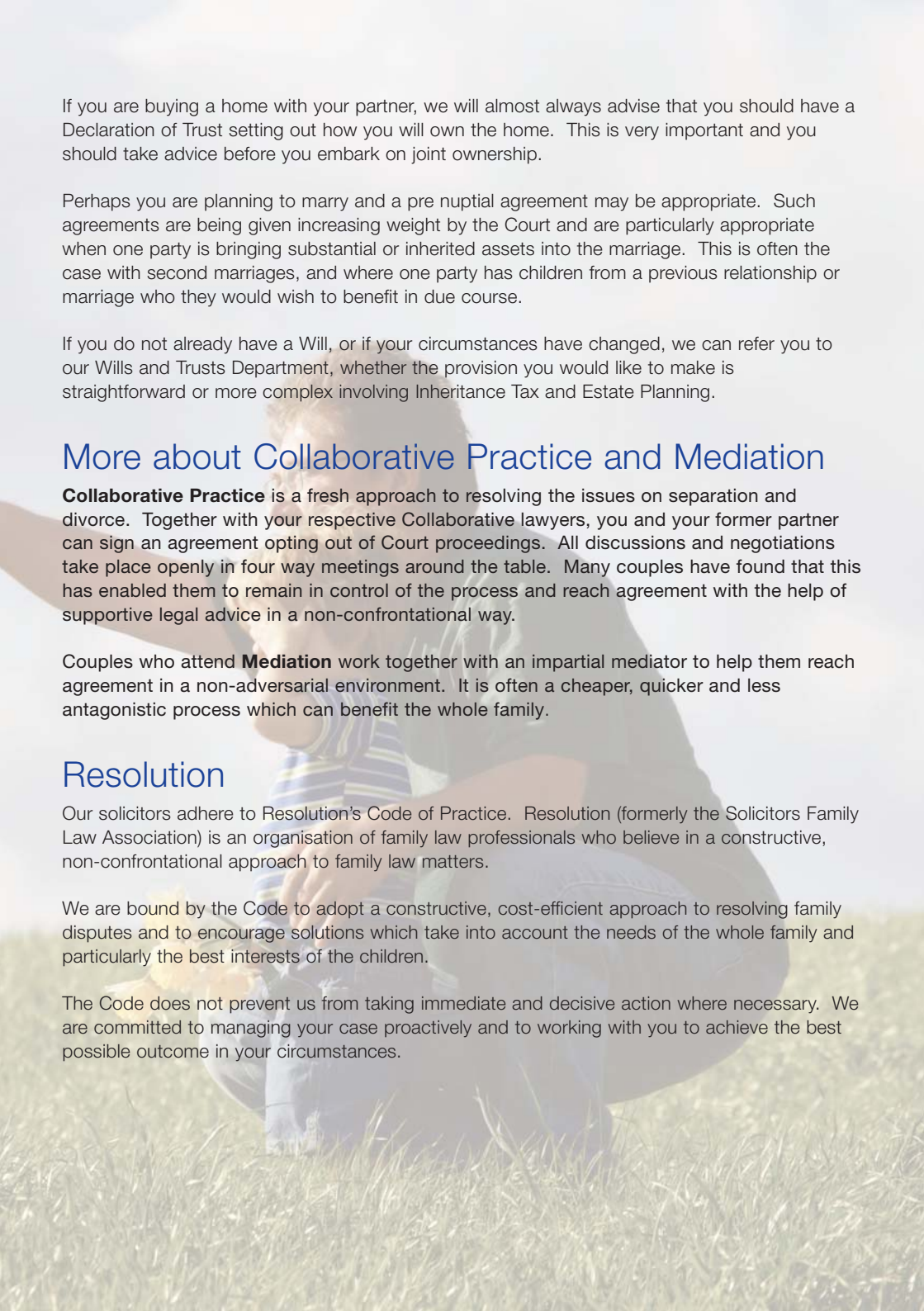
Unmarried parents have the same obligations to maintain their children as married or divorcing parents and if child support cannot be agreed it can be assessed under Child Support legislation. In exceptional cases, additional financial support can be ordered by the Court.

Unmarried parents also generally have the same rights in relation to their children if they have "parental responsibility" for them. Unmarried fathers do not always automatically have parental responsibility. If you are not sure of your position, please ask for further advice. If you do not have parental responsibility, we can advise how you can acquire this and when it might be appropriate to make an application to the Court for parental responsibility, a residence or contact order or other orders.

## Planning for the Future

You may be fortunate never to have experienced family breakdown, or to have been through it and are now considering setting up home with a new partner. Either way, we are able to advise on appropriate arrangements which can be put in place to protect your financial position and avoid stressful and costly disputes arising in future.

If you are planning to live with your partner, we can advise whether a cohabitation agreement would be appropriate. The law which applies to unmarried couples is quite different from the law for married people, but is rapidly changing and you should be aware how this may affect you.



If you are buying a home with your partner, we will almost always advise that you should have a Declaration of Trust setting out how you will own the home. This is very important and you should take advice before you embark on joint ownership.

Perhaps you are planning to marry and a pre nuptial agreement may be appropriate. Such agreements are being given increasing weight by the Court and are particularly appropriate when one party is bringing substantial or inherited assets into the marriage. This is often the case with second marriages, and where one party has children from a previous relationship or marriage who they would wish to benefit in due course.

If you do not already have a Will, or if your circumstances have changed, we can refer you to our Wills and Trusts Department, whether the provision you would like to make is straightforward or more complex involving Inheritance Tax and Estate Planning.

## More about Collaborative Practice and Mediation

**Collaborative Practice** is a fresh approach to resolving the issues on separation and divorce. Together with your respective Collaborative lawyers, you and your former partner can sign an agreement opting out of Court proceedings. All discussions and negotiations take place openly in four way meetings around the table. Many couples have found that this has enabled them to remain in control of the process and reach agreement with the help of supportive legal advice in a non-confrontational way.

Couples who attend **Mediation** work together with an impartial mediator to help them reach agreement in a non-adversarial environment. It is often a cheaper, quicker and less antagonistic process which can benefit the whole family.

## Resolution

Our solicitors adhere to Resolution's Code of Practice. Resolution (formerly the Solicitors Family Law Association) is an organisation of family law professionals who believe in a constructive, non-confrontational approach to family law matters.

We are bound by the Code to adopt a constructive, cost-efficient approach to resolving family disputes and to encourage solutions which take into account the needs of the whole family and particularly the best interests of the children.

The Code does not prevent us from taking immediate and decisive action where necessary. We are committed to managing your case proactively and to working with you to achieve the best possible outcome in your circumstances.

# Contact us

If you would like advice about your particular situation, please contact one of our Family Team at any of our offices:

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Barlow Robbins LLP is a limited liability partnership incorporated under number OC 319529.

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A list of members of the LLP is displayed at the above address together with a list of those individuals designated as Partners but who are not members of the LLP.