



## **DIVORCE AND RELATIONSHIP BREAKDOWN**

### **The Firm - AWG**

We are just the solicitors for you.

A Partnership of Lawyers set in the heart of West Dorset in Bridport maintaining a high standard of professional service and a personal partner led service.

We pride ourselves not only on our legal ability but also our ability to see the wider picture in protecting your best interest.

The firm provides an effective and efficient service and the best possible quality of advice.

When necessary and particularly if you have substantial assets we will engage a Barrister so that your interests will always be properly protected and you will have the best representation possible. We will have contact with Accountants and other professional services as necessary.

### **Costs**

Our charging rates are available on enquiry. At that first interview careful consideration will be given to the course of action to be taken bearing in mind all the circumstances. You will then be given an estimate of your likely costs in the light of that advice. Whatever your circumstances they merit careful consideration.

## **Family Team**

**Those specialising in Family work at AWG are:**

**Peter Alexander, Partner**

**Scott Bowley, Partner**

**Scott Bowley** has been a Partner since 2001 and has developed a good family practice covering divorce and financial provision on marriage breakdown and also the welfare of children within divorce proceedings and public law cases. Scott is a natural, strong litigator. He is a clear and effective communicator which he uses in conscientious client care and strong advocacy in Court. In Children Act cases Scott combines common sense and persuasive negotiations in putting forward a clear and firm case.

**Peter Alexander** was for many years a Partner in a firm in London and moved to West Dorset to join the firm in 2003. He has a reputation for fair-mindedness and being a skilled negotiator but will always hold his ground if needs must. He continues to act for many of his London clients and contacts and with modern communications he is able to look after clients from any part of the country. Of course he will make arrangements to see our clients wherever they wish (including in their homes if this is necessary).

The breakdown of a relationship is a very difficult time for all concerned not only for the parties concerned but also for the children and the wider family.

The situation needs to be handled very carefully and with great understanding to achieve a result that does not devastate the lives of the people concerned and more particularly the children of the family whose interests are paramount.

We are used to dealing with complex and sensitive cases. We will advise you on all the avenues available to you and if your case is suitable for mediation and you wish to attempt to resolve matters this way we will assist you in finding the best mediator to suit your circumstances and will continue to advise you through the mediation process. If mediation is not appropriate we will negotiate financial matters on your behalf, or if Court proceedings are issued we will prepare all of the Court documentation.

Whatever role you wish your solicitors to fulfil whether as a background advisor or to conduct the entirety of your case it is essential that you obtain good legal advice early on.

When you look for a solicitor, choose someone you have confidence in and with whom you have a good rapport. After all you trust this person with assisting you in making decisions which may affect the rest of your life and perhaps the lives of your children.

## **Introduction / Marriage Breakdown**

The relationships in which people are involved these days are many and various and each type of breakdown is likely to result in the parties requiring legal advice. Whatever your circumstances AWG will be able to help you resolve those difficulties.

When you face a marriage breakdown you are likely to be at a complete loss as to what to do and it is important to realise all the alternatives that face you.

You may wish to live separately from your spouse and reach an agreement as to what should happen for the future.

In the first place you can discuss matters between the two of you and seek to reach agreement. Of course in deciding what is fair you may need advice and do not hesitate to speak to us and we will help you in the background without rocking the boat.

The agreed terms can be set out in a Separation Agreement which can deal with a whole range of matters including when and whether you will get divorced, the arrangements for the children and financial matters etc. etc.

You may decide that you wish to go to a Mediator and we can assist you in the recommendation of a Mediator. If agreement is reached again we can give effect to the terms by setting out the terms in an agreed Separation Agreement.

Alternatively you may decide that you want to end the marriage and issue divorce proceedings. A decree of divorce can be granted on any of the following grounds:

- Adultery by the other party
- Unreasonable behaviour of the other party
- Desertion (i.e. the other party left without just cause) for two years
- Separation for two years where both parties consent to the divorce
- Separation for five years

The procedure for divorce generally takes between 4 to 6 months but the final decree of divorce (Decree Absolute) may be delayed if financial matters have not been resolved. Once the Decree Absolute is made you will be free to marry if you so wish.

## **Judicial Separation**

As an alternative to divorce a party can apply for Judicial Separation which is an official Court recognition of the separation on the same evidence as a divorce. Such applications are rare but parties might apply for Judicial Separation for religious reasons or for reasons where they do not wish to affect pension rights. The Court has the same power to make financial Orders as in divorce proceedings but the awards may not be the same.

## **Financial Provision**

It may be that you and your spouse are not able to reach agreement on financial support that should be provided in which case either party may issue a Court application to resolve financial matters.

The first stage in dealing with such a Court application is for the two individuals to complete a document called a Form E which requires detailed financial information.

The purpose of the financial dispute resolution appointment at Court is to obtain the Court's assistance in resolving matters. It is an appointment before a District Judge to see if an agreement can be reached. If it can, then the case will proceed no further. If it cannot the District Judge will give directions as to how the case should be brought to trial.

If your case does proceed to a trial then a Court will be obliged to consider certain factors when dealing with your financial case and these can be summarised as follows:

- The income, earning capacity and other financial resources which each of the parties has or is likely to have in the foreseeable future
- The financial needs, obligations and responsibilities which each of the parties of the marriage has or is likely to have in the foreseeable future
- The standard of living enjoyed by the family before the breakdown of the marriage
- The age of each spouse and the length of the marriage
- Any physical or mental disability of either of the parties to the marriage
- The contribution which each of the parties has made or is likely to make in the foreseeable future to the welfare of the family including any contribution made by looking after the home or caring for the family
- The financial conduct of each of the parties if in the opinion of a Court it would be inequitable to disregard it
- The value to each spouse to any benefit (for example a pension) which by dissolution or annulment of the marriage that person will lose the chance of acquiring

The law is always developing and changing in relation to financial applications and we will keep you informed of the current case law when dealing with your case.

Referring to the factors above what the Court is actually looking for is what it considers a 'fair' outcome and will weigh up the various factors including the financial needs and available resources of both parties and their contributions. Each case depends on its unique circumstances and the Court has a wide discretion.

At Austen Whetham & Guest we will advise you on the likely split in your particular case and on the question of maintenance being payable.

In making any offer we will consider carefully the implication of legal costs on the proposals that you are making. Sometimes the amount of legal costs can outweigh the benefit of taking any particular line of argument.

### **Civil Partnerships**

Civil Partnerships (a formal legal relationship between two people of the same sex) became legal on 5 December 2005 and the Civil Partnership Act sets out the legal consequences of entering into a Civil Partnership.

Once registered a Civil Partnership ends only on death, dissolution or annulment and Civil Partners have the same legal status as married partners.

AWG is able to advise you on the formation of a Civil Partnership and whether to have a pre – Civil Partnership agreement.

As in marriage there is only one ground for dissolution and that is the irretrievable breakdown of the partnership evidenced by certain facts as follows:-

- Unreasonable behaviour
- Two years' desertion
- Two years' separation and consent
- Five years' separation

There are certain circumstances in which the Court has power to declare a Civil Partnership void or voidable and these will need very careful consideration as the law is complicated but having said that the usual way of proceeding will be to apply for dissolution.

After dissolution the Court has the same power to order financial provision between the parties as it does on divorce taking into account the same factors as in divorce proceedings.

If you require any further assistance please do not hesitate to ask a member of staff who will be happy to help.

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