

Police Family Matters

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Slater &
Gordon
Lawyers

FORMERLY

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Divorcing Online - The Pitfalls

Divorcing from the comfort of your own home and with the promise that it will be cheaper than using a solicitor is a very tempting offer. So why do our clients wish that they had picked up the telephone instead and ditched the D.I.Y. Online divorce?

Clean break

There are two elements to a divorce. There is the process of legally ending the marriage and obtaining a certificate of divorce (called the decree absolute) and then there is the financial settlement. Only the court can order a financial clean break between the parties to a marriage. This is an order preventing a future claim by the parties against the others income, capital or estate on death. A recent client completed his divorce online and verbally agreed terms of settlement with his wife. He was not advised on how to deal with the financial aspect of the divorce and the risk of leaving their agreement on an informal basis. Five years on his wife has now issued a financial application and wants to depart from their agreement. In particular, she seeks a share of his police pension, which after a five year separation is worth more than it was at the time they separated.

The "quickie" divorce

Online agencies cannot achieve a divorce any quicker than a solicitor. The procedure to be followed is exactly the same. What however can happen is that the decree absolute is applied for at the earliest opportunity and this can result in leaving a client financially vulnerable. For example Mr Y applies online and has not been advised to formalise the financial agreement. Six months after his divorce his wife dies. As they are divorced he is no longer her legal spouse and entitled to the spouse's police pension and pension lump sum. This benefit has died with his wife. Furthermore, as Mrs Y had no valid will by virtue of the pronouncement of the decree absolute Mr Y is not automatically entitled to financial provision from her estate. Had he received proper advice he would not have found himself in this position.

Personal Touch

Divorce is a very emotional and personal issue. Everyone is different and therefore what may feel right for one couple may not to the next. Online you cannot adapt the divorce to the way you want to proceed. We can however discuss with you ways in which you can try to keep matters amicable, such as sending a draft to your spouse for their approval prior to issue and the options to reduce the impact of the divorce on the children.

Costs

Online agencies will market their services on the basis of huge savings. When in reality there are court fees to issue the petition and money is needed to pay for the decree absolute which are all in addition to their advertised fees. It is usually only once you have completed their registration page and given your card details that you will be told exactly what the total costs will be.

Others who have gone down the D.I.Y. online route can end up spending more money on court fees. If a petition is not properly completed the court will send it back and charge an amendment fee. This also delays the process. We have the training and expertise to know exactly what is required and the benefit of knowing the local court and whether they have any particular requirements.

At S&G we offer tailored fixed fee products in relation to your divorce. This will allow you to budget and ensure you are aware of what your total costs will be prior to starting the process. Our products are designed for any budget and range from a lawyer assisted divorce to a more tailored divorce package.

To discuss your options please contact our Police Family Law helpline or contact your local Slater & Gordon family law representative from our website.

Police Reform – How it affects negotiation of your financial settlement

There is a common misconception that police officers are entitled to an automatic “golden handshake” upon their retirement, as well as being in receipt of numerous benefits during their service. However recent government reforms have meant this is far from the reality and these changes need to be considered when negotiating a financial settlement.

Competency Related Threshold Pay (“CRTP”)

If you are in receipt of CRTP, it is important that your spouse and/or the Court are made aware that CRTP is being phased out from 2013 – 2016.

As part of negotiating a financial settlement, you will usually be required to disclose your last three payslips. Your income will be looked at when assessing how the capital should be divided and how much maintenance, if any, needs to be paid to your spouse. The Court will also look at your future income. If therefore you are currently in receipt of CRTP, it is important that the Court is made aware that this will be phased out. The reduction of CRTP will also affect your pensionable pay which is based on your final salary.

Pay increase of 1%

It has recently been announced that the pay freeze will be ending in August 2013 with a pay increase for officers of 1%. Just because the pay freeze has been lifted however, it does not mean that in reality the increase will make any real difference to the income that you receive. The Court/your spouse should always be made aware that your take home pay will still be reduced. Factoring in the increased pension contributions and reduction of CRTP, your take home pay will still be reduced and is not rising in line with the increase in the cost of living.

Pension changes and increased pension contributions

There will also be significant changes to future police pension arrangements with the full details of the new arrangements to be developed over the next couple of years. For many police officers, their pension has often been their most valuable asset. For those officers affected by the changes this may no longer be the case. This must be kept in mind when going through a divorce and negotiating a financial settlement as the projected value of their pensions will be lower than once expected.

Slater & Gordon have one of the largest family law teams in the country who are all fully trained on all aspects of police culture from pay scales to shift patterns so you can be guaranteed that you are getting the best possible advice.

Separated parents - contact during the school holidays

After the coldest Easter on record, there has been a surge in holiday bookings to sunnier climates as many families start to plan their holidays. For those parents who have separated, the experience can, however, be a stressful one. As family lawyers we are often asked the following questions:

1. Do I need the other parent's permission before I take my child out of the country on holiday?

Unless there is a Court Order granting you residence, you cannot take your child on holiday abroad without the permission of everyone with parental responsibility. If you do, you are likely to be regarded as “abducting” your own child and as a police officer, the implications of doing so could be far reaching and may well cause issues at work.

If there is a Court Order granting you residence you can take your child out of the country for periods of one month or more without the other parent's permission.

2. Who has parental responsibility?

Mothers automatically have parental responsibility. Therefore, if there is no residence order in a father's favour, the father cannot take a child on holiday without the permission of the mother.

Fathers only have automatic parental responsibility in respect of children born after 1 December 2003 where they are named on the birth certificate or if they have been married to the mother. If you do not have parental responsibility and wish to acquire this, there are ways in which this can be done and it is important that you obtain legal advice.

3. If I cannot reach an agreement with the other parent, what options are available to me?

If from the outset of separation, arrangements cannot be made between both parents as to who is having the children and when, including during school holidays and on special days such as Christmas and birthdays, then you should turn to a solicitor or mediator. In the vast majority of cases they will help you reach a compromise.

If this is not successful, then ultimately Court proceedings may need to be issued. If you do wish to take your child on holiday then it is important this subject is brought up with the other parent as early as possible to ensure there is sufficient time to apply to Court if need be. It is important you obtain legal advice from one of our specialist family lawyers.

Please feel free to discuss your own position and concerns. Contact your nearest Slater & Gordon Lawyers office on:

T: 0808 175 7710

W: slatertgordon.co.uk/policefamily

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Birmingham, Bristol, Cardiff, London, Manchester, Milton Keynes, Newcastle, Sheffield, Wakefield & Edinburgh - Associated office.

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