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Family Law

Family Law News & Views

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“Everything was
made so easy”

“friendly and
caring”

“practical and
clear advice”

“A real personal
service”

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The Resolution Manifesto

Resolution, the organisation representing family lawyers in this country, has published a manifesto setting out what the government should do to improve the lives of separated and separating families.

The Manifesto For Family Law sets out 6 areas in need of improvement:

- ◇ **Protect vulnerable people going through separation**
- ◇ **Introduce measures to keep divorce out of Court**
- ◇ **Introduce a Parenting Charter to help parents understand their responsibilities when they separate**

- ◇ **Allow people to divorce without blame**
- ◇ **Give people more financial clarity on divorce**
- ◇ **Protect couples who live together**

The Manifesto states: “We have a divorce system focused on blame,” provides “little support for vulnerable people going through a separation; restricted access to alternatives to court; a lack of financial clarity for couples on divorce; and no legal protection for people who split up after living together.”

There have been huge changes in family law during the past 2 years. The

removal of Legal Aid has led to a massive increase in people representing themselves in Court proceedings. This, in turn, has caused delays and increased costs for those who do have a Solicitor. A new Family Court has been set up and applications to the Family Court are to be made to local hubs. This is likely to lead to more problems and delays.

Hopefully the Government will take notice of the Manifesto for Family Law and take action soon!

To read a copy of the Manifesto click [here](#)

The ex-husband v the mother-in-law

Mr and Mrs Randall were divorced in 2006. Their financial settlement included a clause whereby should Mrs Randall receive an inheritance from her mother, the first £100,000 would be hers and any additional sum would be shared equally with Mr Randall.

Mrs Randall’s mother, Mrs Corall, died in 2013 and in her Will she left £100,000 to her

daughter, and the balance of her estate (£150,000) to her grandchildren.

Mr Randall asserted that the Will was not properly executed (the date was entered incorrectly) and that Mrs Randall should have received the entire estate, from which Mr Randall would receive £75,000.

The Judge held that Mr Randall did not have an interest in the estate and therefore could not challenge the Will.

In addition, the Judge held that Mr Randall had no personal claim against his mother-in-law. His claims were only against his ex-wife and she had complied with the terms of the financial settlement.

Why appoint a second Executor?

When making your Will, it is important to appoint more than one Executor. If you have only appointed one, and he or she dies before you, you will not have anyone to deal with your estate. It is also possible that your Executor may lose capacity and may not be able to deal with your estate.

If your chosen Executor dies or loses capacity during your lifetime, you can change your Will to appoint a new one. However, many people do

not review their Wills regularly or lose capacity themselves and become unable to change their Wills.

What happens if you die and your sole Executor has lost capacity?

If the Executor has made a Lasting Power of Attorney, their Attorneys may be able to deal with your estate. However, if a Lasting Power of Attorney is not in place, an application to the Court of Protection is required for a

Deputy to be appointed to deal specifically with your estate.

Of course in making the application, the Deputy can be appointed to deal with all the financial affairs of the Executor.

As with all applications to the Court of Protection, it takes many months and is an expensive process.

It is therefore advisable to review your Will on a regular basis.

Divorce

Financial
Settlements

Child Arrangement

Orders

Wills

Advance Decisions

Advance
Statements

Lasting Powers of
Attorney

Alternatives to the CMS (CSA)

Schedule 1 of the Children Act is not well known to parents. It's most common use is to top up maintenance payments when the paying parent's income is more than £3,000 per week. However, the Court has the power to order that a property be transferred from one parent to another or a lump sum paid to provide for a child.

In making a decision, the Court must have regard to

"all the circumstances of the case" including:

- (a) the income, earning capacity, property and other financial resources which each person has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each person has or is likely to have in the foreseeable future;
- (c) the financial needs of the child;

- (d) the income, earning capacity (if any), property and other financial resources of the child;
- (e) any physical or mental disability of the child;
- (f) the manner in which the child was being, or was expected to be, educated or trained.

An application can be made against a parent by anyone with a residence order for a child, which can include guardians and special guardians.

New domestic violence offence

The Home Secretary, Theresa May, recently announced a new domestic abuse offence for 'coercive and controlling behaviour'. The offence was introduced to protect victims from extreme psychological and emotional abuse.

Although there are already offences relating to physical violence, this new law deals with the 'behind closed doors

abuse' that family solicitors deal with on a regular basis.

Physical abuse can leave bruises and broken bones, but emotional abuse leaves no real physical evidence. However, witness testimony for the new offence can be supported by documentary evidence, which includes emails, text messages and even bank statements, if the

offender has tried to control the victim's finances.

Theresa May said "Coercive control can be tantamount to torture. In many cases, dominance over the victim develops and escalates over the years until the perpetrator has complete control. Putting a foot wrong can result in violent outbursts, with victims living in fear for their lives."



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Julie McDonald Family Law is authorised and regulated by the Solicitors Regulation Authority (No. 607193)

What we offer you

- ◇ FREE initial 30 minute, no obligation meetings
- ◇ FREE home visits within 15 miles of Newmarket
- ◇ FREE parking at our offices in Newmarket
- ◇ Evening and weekend appointments
- ◇ Skype or telephone appointments
- ◇ Fixed fees where possible
- ◇ No VAT on our fees for a limited period
- ◇ Flexible payment options
- ◇ Regular updates on your case and our costs
- ◇ Advice in plain English—no legal jargon
- ◇ Professional advice from a qualified and experienced family Solicitor

Dates for your diary

**FREE Legal Clinic at
Newmarket Day Centre
Tuesday 3 March 2015 &
Tuesday 7 April 2015
10.30am to 11.30am**

On the first Tuesday of every month Julie McDonald hosts free Legal Clinics at the Newmarket Day Centre.

If you have a legal question about Family Law, Wills or Lasting Powers of Attorney, you are welcome to drop in to meet Julie and ask your question. Topics include:

- Making a Will
- Making a Lasting Power of Attorney
- Relationship problems including divorce and separation
- Problems seeing grandchildren

St Nicholas Hospice



St Nicholas Hospice Care

Legal Surgery

Wednesday 29 April 2015

12 noon to 1.00pm

Julie McDonald hosted legal surgeries at the Hospice on a number of occasions in 2014.

Julie was at the Hospice to provide free legal advice to staff, Hospice patients and their families.

The Hospice has invited Julie back to host another legal surgery on Wednesday 29 April 2015.

We also took part in Wills Weeks 2014 and we will be taking part in 2015. As soon as the dates are released we will let you know.

Newmarket Day Centre

