

# When relationships break down

Part I  
Every issue we will look closer at one issue of separation

Wilson Browne Solicitors tells **Child** magazine how to deal with the issues...

*Ed Rawlins writes:* As many people will know, if a relationship breaks down family life can become very difficult very quickly. So many issues are thrown up at the same time, and where there may have been reassuring stability, this can be severely threatened. If a child or children are involved, they as particularly vulnerable individuals, are at risk of being confused by events going on around them – any decision taken is going to have a significant impact on their lives.

#### Decisions

Decisions to be faced may include:-  
Where is the child going to live?  
If things are changing, will the child still attend the same school?  
How will they be cared for on a day-to-day basis?  
Should they be able to see both their parents on a regular basis? What about the wider family – grandparents, aunts and uncles?  
Who will be their Guardian?  
How will they be provided for in the event of their parents' death?  
What is going to happen about the current home?  
How will the finances fit together?  
What do I need to know – and when do I need to know?

#### Issues

Issues that previously did not exist, or had not been thought about, suddenly need to be tackled and decisions taken. This is likely to be in the midst of an emotional upheaval. However, if they are not addressed and remain unresolved, that may well be storing up difficulties for the future. If that is the case, it is a lot more likely that disputes will arise, and then Court proceedings may be the only way of being able to move a matter forward – that is the last thing anyone really wants.

#### Challenge

The challenge then is to try and reach agreement wherever possible, even with the person from whom you are separat-



ing. Being aware of the issues may be one thing, but having the confidence to discuss them to the point where a reasonable conclusion can be reached may be quite another. Information, and confidence about that information, is an all important part of that process. Ed Rawlins, partner and experienced family law specialist with Wilson Browne Solicitors says "A lawyer should not be treated as the fourth emergency service; only contacted when no other way forward appears possible. When someone has come to see me at an early stage, they can be both reassured and equipped to deal with many of the practical issues that are so important to them

and their children. It makes the possibility of reaching agreement that much greater, because it enables everyone to know where they stand legally". As the breakdown of a relationship, whether within a marriage or not, involves so many issues we will be exploring various scenarios in future issues to help people get a better understanding of the legal position. If in the meantime you have any specific queries, please contact either Ed Rawlins or Heather Davies of Wilson Browne Solicitors on 01604 628131 quoting reference FD7 so that we can ensure that you are able to speak to someone with the relevant specialist knowledge.

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Ed Rawlins

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Heather Davies

# When relationships break down

child...relationships

Wilson Browne Solicitors tells **Child** magazine how to deal with the issues...

Heather Davies writes:  
The separation of two parents can be a very difficult and traumatic time for the children of the family. The sooner security and stability can be created the better. The children are often confused by what is going on around them; which parent they will live with, how often they will see the other parent to name but two.

The earlier in the process that the parents can agree and decisions can be made the more likely it is that the children will settle well with the new arrangements and will face less disruption and upset.

There are a number of ways in which arrangements for children following their parents separation can be resolved. If children can see their parents agreeing without the need for any third party intervention they are more likely to be able to come to terms with the separation of their parents safe in the knowledge that they will spend time with each of their parents and that those arrangements are amicable. If the parents cannot agree, consultation with a solicitor at an early stage can bring about the opportunity to put forward proposals to resolve matters at an early point. There is no need for Court proceedings if the parents can agree either voluntarily or with the assistance of solicitors.

Mediation is another service that is available to separating parents to create an early opportunity to bring the couple together to discuss the issues and work out a way forward. Mediation can be arranged at an early stage and create an environment of "round the table" discussion without the pressure of the Court environment.

If the suggested amicable opportunities do not achieve an agreement, an application to resolve the children issues can be made under the Children Act 1989. The Court's paramount consideration is the



Part 2  
Every issue we will look closer at one issue of separation

child's welfare. The Court will consider the ascertainable wishes and feelings of the child concerned, bearing in mind their age and understanding. There are other factors which are taken into account including  
> the child's physical, emotional and educational needs,  
> the likely effect on them of any change in circumstances,  
> their age, sex and background,  
> any harm which they have suffered or are at risk of suffering and  
> how capable each of the parents are in relation to meeting the child's needs. Recent changes in the system in Northampton County Court now allow children of 8 years and above to be asked for their own views on contact issues at a very early stage. This often gives rise to parents focusing more directly on the children's wishes and feelings and it can be very helpful in focusing the issue and meeting the needs of the family as a whole without the

usual delays that are involved in a Court application if for example the children are much younger or the case proceeds to a final hearing.

"When someone comes to see me at an early stage about issues concerning children they can be given all of the relevant information to assist them in deciding which of the options would be most suited to their family and the resolution of the issues concerning children that arise following separation. It is a difficult time for the family in any event and the sooner those issues can be resolved the better it is for all concerned, particularly the children".

If you have any queries about contact please contact Ed Rawlins or Heather Davies of Wilson Browne Solicitors on 01604 628131 quoting reference FD7 so that we can assure you are able to speak to someone with relevant specialist knowledge.



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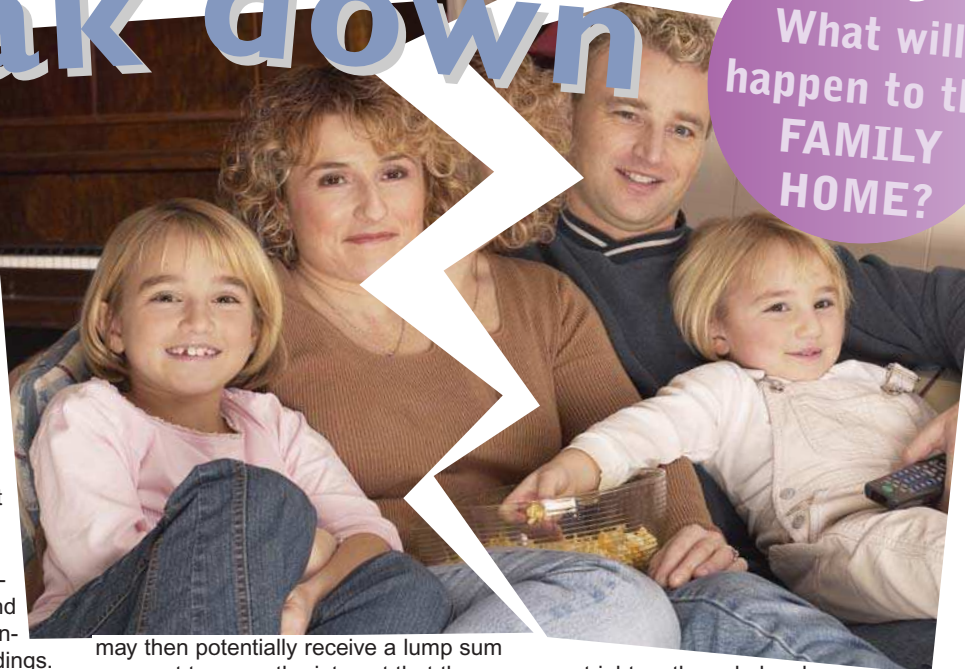


Heather Davies

# When relationships break down

Part 3  
What will happen to the FAMILY HOME?

Wilson Browne Solicitors tells **Child** magazine how to deal with the issues...



Carla Tirrell writes:

The break down of a relationship can give rise to various issues that need careful consideration; one of which is the family home. The home is often one of the most substantial assets that people have and is therefore understandably the general focus for any financial proceedings. People often see the family home as representing not only a capital investment, but also a roof over their head. It is also the place where any children may well be settled. It is therefore important that each party to a break-up takes independent legal advice so they are fully aware of not only their options, but also any potential action that their ex-partner may bring.

Whilst there may be some bitterness in the aftermath of a separation, it is always better if people are prepared to negotiate matters amicably, if only for the sake of the children. It may be possible to make arrangements for the family home through a Separation Agreement or through a Court Order depending upon the circumstances.

Where negotiation fails and agreement cannot be reached, the Court has various powers that it may use, including a power to order the sale of the family home. Though at the forefront of the Court's mind will be the provision, where possible, of homes for each person and in particular for the children.

If the house is in joint names then each person is protected from their ex-partner simply selling the property without their consent as they would both need to be mentioned in and sign any contract for sale. However, it is then important to take legal advice to discuss what action can be taken by them and/or the ex-partner and also what powers the Court has. Where the family home is owned in joint names it may be possible for people to reach agreement and/or the Court to Order that the property be transferred into the name of one person. The other

may then potentially receive a lump sum payment to cover the interest that they are transferring from the property. Such a payment could be raised by, amongst other things, the remortgaging of the property. When remortgaging, a person may feel that they cannot possibly remortgage on their sole income, but people should not lose heart immediately. It is worthwhile looking at different lenders as there are some who will take into account Working Tax Credits.

Alternatively, where a lump sum payment cannot be raised in the short term, it may be that the person transferring away their interest takes a Legal Charge over the property to secure their interest when a certain 'triggering' event occurs. An example of such an event is the youngest child of the family reaching the age of 18 years old or finishing full-time education. Any agreement that prevents the immediate sale of the family home may well be beneficial for the children. In the example given the child potentially can remain in familiar surroundings until they are old enough to leave home, whilst the other person does not lose their 'interest' in the property.

However, someone who owns a house

outright as the sole legal owner should not simply think they are 'sitting pretty'; they should contact a solicitor. Similarly the person who is not named on the Title should also seek legal advice as they may well be entitled to register their Matrimonial Home Rights against the property before pursuing any claim. It is not always the case that the family home is owned. It may well be that the property is rented. In such circumstances it is still important to take legal advice in order that the powers of the court under s.24 Matrimonial Causes Act 1973 and Schedule 7 of the Family Law Act 1996 can be explained.

Whatever the circumstances, seek independent legal advice. There are so many variable factors that it is important that any legal advisor is informed as to the full circumstances.

The advice given is general in nature and Wilson Browne accepts no liability for loss or damage caused or suffered as a consequence of any reliance upon the same. If you would like to discuss any issues arising from this article please contact (01604) 628131 quoting reference FD7.



Carla Tirrell

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Heather Davies