

GRANT SAW

SOLICITORS LLP

Incorporating Lawbridge Solicitors

FAMILY LAW NEWS



Mandeep Clair

If you're going through a divorce or separation, the last thing you need is more stress. With many years experience between them, the Grant Saw family law team works hard to ensure that any issues arising from your

situation are dealt with in an efficient and sensitive manner.

As experienced family law solicitors, we empathise with the unique situation of every one of our clients and provide objective advice on the steps that need to be taken to resolve issues with former partners.

Mandeep Clair and Michael Dear both specialise in matrimonial and family work at Grant Saw.

Mandeep is a qualified solicitor and collaborative lawyer. In addition, Mandeep has the Law Society Family Accreditation which is the quality mark for family law practitioners. Mandeep is fluent in Punjabi.

Michael is a Chartered Legal Executive with over 30 years experience of matrimonial and family work.



Michael Dear

He specialises in divorce proceedings, cohabitation disputes, prenuptial agreements, financial and property disputes as well as all aspects of work relating to children.

Michael and Mandeep are also both qualified Mediators and members of **Resolution**, an organisation that believes in a constructive, non-confrontational approach to family law matters.

For advice and help with any family law matter, contact either Mandeep on DD: 0208 305 4235 or email: mclair@grantsaw.co.uk or Michael on DD: 0208 305 4238 or email: md@grantsaw.co.uk



WE OFFER A FIRST FIXED FEE APPOINTMENT OF UP TO ONE HOUR FOR £100 + VAT TO ALL CLIENTS IN RESPECT OF RELATIONSHIP BREAKDOWN AND/OR ISSUES CONCERNING CHILDREN.

GRANT SAW SOLICITORS LLP

Registered Office:
Grant Saw House
8 Tranquil Passage
Blackheath Village
SE3 0BJ
Tel: 020 8858 6971

Greenwich Office:
8th Floor
6 Mitre Passage
Greenwich
SE10 0ER
Tel: 020 8858 6971

Sidcup office:
2nd Floor Roxby House
20-22 Station Road
Sidcup, Kent
DA15 7EJ
Tel :0208 308 3610

Email: enquiries@grantsaw.co.uk

WWW.GRANTSAW.COM

Family court has high court powers

When a couple divorced, their financial settlement was complicated by the fact that both of the properties they jointly owned were mortgaged. The Family Court ordered that they should each have one of the properties and use their best endeavours to release the other from their obligations under the mortgage. If that proved to be impossible, each should indemnify the other against any liability under the respective mortgages, such that each alone would be responsible for the payment of the mortgage on the house they occupied.

When problems occurred with regard to the payment of one of the mortgages, a

legal argument arose as to whether the Family Court had the power to make an order including the indemnities or whether its powers were 'confined to the four corners of the Matrimonial Causes Act'.

In a terse judgment, Mr Justice Mostyn stated that 'the Family Court has all the powers of the High Court. The High Court unquestionably has the power...to order an indemnity. If awarded, that represents a legal right in favour of the person so indemnified. The court can award an injunction in support of a legal right. To order someone who has been ordered to indemnify the other party in respect of a mortgage to use his or her best endeavours to keep up

the payments on that mortgage is of the nature of an injunction in support of a legal right. In my opinion, this provision is squarely within the power of the High Court to order, and is therefore within the power of the Family Court.'

The ruling confirms that the Family Court has the powers of the High Court in these circumstances. This means it can make orders for indemnities and injunctions, which may be necessary in cases where the existing financial arrangements are tricky to separate out.

Contact our experienced family law team here at Grant Saw for help and advice on any matrimonial issue.

Wife must pay for her own mistakes

The Supreme Court recently decided a case which made clear some of the limits that apply when financial issues were resolved within a consent order at the time of a divorce but where circumstances have changed over time and one spouse seeks to have the arrangements revisited by the courts.

It concerned an application by the ex-wife of a businessman to have the financial settlement they agreed when they divorced in 2002 revisited. Under the settlement, the wife received most

of the couple's cash assets – some £230,000 – and maintenance of £13,200 a year for life. She used the capital sum to buy a house with a mortgage as a top-up, but she over-extended herself and by 2015 was in debt and living in rented accommodation.

She applied to have her maintenance increased as she could no longer afford her rent, and her ex-husband applied to have the payments stopped. The argument went to the Court of Appeal, which increased the maintenance payments to more than

£17,000 a year. The ex-husband appealed against that order. The Supreme Court agreed with the ex-husband: the original settlement had taken housing costs into account. His ex-wife's situation was the result of decisions she had made subsequently and it would not be fair to expect him to foot the bill for those.

Strong and experienced legal representation can help ensure the best possible financial settlement on marriage break-up. Contact Michael or Mandeep for help and advice.

Child contact disputes can be defused by mediation – but take advice soon

If parents engaged in child contact disputes take up entrenched positions, it is very nearly always the child that suffers most. Such disputes can often be defused by taking legal advice at an early stage in order to promote dialogue and an amicable resolution. In one case where this did not happen, a father ended up being banned from having any direct contact with his nine-year-old daughter.

Since the parents' separation, the girl had lived exclusively with her mother, who had married another man. During five years of relentless litigation, the father had been criticised for his bizarre and controlling behaviour. The mother and her husband, however, were said to be determined to extinguish his parental responsibility for the girl and to remove him from any role in her life.

They had allegedly encouraged her to call the husband 'daddy' and her father by his first name. They had also made, and later withdrawn, a misguided application to adopt the child.

In ordering that the father should have no face-to-face contact with the girl, a family judge noted her hostility towards him and that contact is the right of the child, not the parent. After forming an unfavourable view of the father, the judge restricted him to weekly Skype or telephone contact with the girl and to sending her monthly letters and occasional gifts. The judge, however, expressed the hope that, if the father manages to focus on his daughter, rather than his perception of himself as a victim, direct contact might be re-established in the future.

In dismissing the father's appeal against the judge's ruling, the High Court noted that the girl had been caught in the middle of the conflict between her parents. The huge ill will between them was deeply damaging to the child and had achieved nothing. The Court, however, warned the mother and her husband that they owe it to the father to present him to the girl in a positive light and that a failure to do so would be likely to come back and bite them in the future. He remained the girl's father and it was incumbent upon them to encourage and cooperate with indirect contact.

Bitter though family break-up can be, a skilfully guided mediation process can bring the best results. To be effective, this should begin as early in the proceedings as possible.



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