

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.

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International dimension makes child travel risky

The welfare of children is always top of the list of priorities of the Family Court when making arrangements following the break-up of a family. This can be especially difficult where the parents are from different countries, as shown by a recent case in which the Court considered the welfare of a child of a Mexican mother and an English father.

When the child, aged seven, had expressed a wish to return to live in Mexico, the CAFCASS official appointed as the child's guardian recommended against this. When the child was 18 months old, the mother had taken her to Mexico to visit her family for what was intended to be a short holiday, but had stayed there. It took four years to

obtain the return of the child to the UK, in the face of deception and obstructions put in place by the mother.

Recently, the mother expressed the wish to go to Mexico to see her elderly father, and to take the child with her. The mother has formed a new and lasting relationship with another English man and lives in the UK. She claimed to be 'in a different place' now. The judge commented at length that there were obvious risks of a repetition of the earlier events if the application were granted.

The hearing made it plain that careful safeguards would be required and a substantial financial bond would have to be put in place by the mother to

enable the father to recover the child should legal proceedings be necessary. In addition, part of the earlier separation agreement would have to be redrafted.

As the issue was not capable of resolution at the hearing, a final hearing has been scheduled for July 2019. CAFCASS was reappointed to act as the child's guardian, with a recommendation that the same officer be appointed.

If your family is on the verge of breaking up, careful consideration of the needs of any children should be your first priority.

This can include taking steps to ensure that access to them is maintained.

Council not obliged to do wider family search

It may come as a surprise to many, but when a local authority is making plans for the adoption of a child, it is under no obligation to inform members of the child's extended family of the adoption plans. They have no automatic right to be told if the child's parents have not proposed them as potential alternative carers. Indeed, the local authority is under no obligation to even make them aware of the existence of the child if they have no knowledge of it.

Whether or not the local authority can do so depends on the particular circumstances, and the court will act

in the best interests of the child.

In a recent case in which a baby, whose parents had considerable substance abuse problems, was made the subject of an interim care order, the local authority was granted permission by the court to inform the father's extended family of the circumstances, overriding his objections.

For help with all family law matters, please contact Mandeep or Michael.

High Court decision underlines the finality of divorce arbitration awards

Divorcing couples can sometimes achieve savings of both time and money by opting for arbitration, rather than court proceedings, as a means of resolving any financial disputes. However, as a guideline High Court case underlined, it is vital to remember that arbitrators' decisions are generally treated as final.

Faced with the prospect of having to wait several months for a court date following the breakdown of their ten-year marriage, a couple chose to submit their differences to an arbitrator. He decided that the net capital assets of the marriage should be divided 60% to 40% in the husband's favour.

Such division was to be achieved by the sale of the family home and was designed to enable each of them to purchase a new property. The wife was awarded 76% of the husband's pension and he was required to pay her maintenance at steadily reducing

rates up to the date of his retirement. The wife was, however, dissatisfied with the arbitrator's award, arguing that it was untenable.

She claimed, amongst other things, that the arbitrator had failed to take into account her inability to take on a mortgage and the husband's excessive spending following the end of the marriage. In those circumstances, she argued that the award should not, as is usual, be recognised in the form of a court order.

In ruling on the matter, the High Court noted that arbitration awards are binding in their own right, although they are generally confirmed by court order so that they can be enforced against third parties. However, an arbitration agreement, or an award, does not oust the Court's jurisdiction under the Matrimonial Causes Act 1973 to investigate the circumstances and make an order in different terms.

The efficacy of the arbitration scheme, however, depends on awards being generally treated as effective and binding. In pursuit of a swift resolution of the dispute, both husband and wife had freely entered into the arbitration process with the benefit of legal advice. Both had also signed a form by which they signalled their understanding that the arbitrator's award would in principle be final.

In dismissing the wife's arguments, the Court found that she had failed to establish any fundamental change in circumstances, or mistake on the arbitrator's part, sufficient to undermine his clearly reasoned and balanced award. In the circumstances, the Court made an order in the terms of the award.

Our family lawyers are experienced in helping clients negotiate financial settlements on divorce.



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