

A Guide to Family Law: Marital Breakdown

CLIENT INFORMATION



EMAIL

info@lynchsolicitors.ie



WEBSITE

www.lynchsolicitors.ie



TEL

052 6124344

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CONTENTS

Who is your solicitor?	5
What happens when you first meet with us?.....	6
What is counselling?.....	6
2. SEPARATION OPTIONS	7
OPTION 1: DEED OF SEPARATION.....	7
What is a Deed of Separation?.....	7
What will the Deed of Separation contain?	7
What is access?	8
Will the Separation Agreement deal with the Family Home?	8
What is the legal effect of the agreement?	8
Can I remarry after signing a Separation Agreement?	8
What are the advantages of a separation agreement?	9
What if my spouse refuses to sign the agreement, what can I do?	9
Do we both need our own Solicitor?	9
If we sign a Deed of Separation can I apply for a Judicial Separation.....	9
If I don't sign a Deed of Separation, do I have to go to Court?	10
OPTION 2: JUDICIAL SEPARATION	10
What is a Judicial Separation?	10
What are the grounds for a Judicial Separation?	10
How do I get a Judicial Separation?.....	11
What happens if I need financial help or access to my children or protection from my spouse before the case is heard in Court?	11

What type of final orders can the Court make when my case is heard? ...	12
Option 3: Decree of Divorce	13
When did divorce become legal in Ireland?	13
We did not get married in Ireland- can we apply for a Divorce in Ireland?	13
Who can apply for a Divorce?	13
Can I re-marry after I get my Divorce	13
Must I go to Court to obtain a Divorce?	14
Do I have to have a Judicial Separation or have signed a Deed of Separation before I apply for a Divorce?	14
What happens if I need financial help or access to my children or protection from my spouse before the case is heard in Court?	14
What type of final orders can the Court make when my case is heard? ...	15
Option Four: The Collaborative Approach/Structured Negotiations.....	16
I have heard lots of people talking about collaborative law- What is it?...	16
How is this different to normal negotiations?	16
Do we have to try the collaborative approach?	16
I want to try the collaborative approach but if it fails I want you to continue to act for me?.....	17
How do the collaborative and the structured negotiations approach actually work?.....	17
3. PROPER PROVISION: HOW WILL ASSETS BE DEALT WITH?.....	18
I know that I will not be able to agree on the division of assets with my Spouse- what will the Court do?	18
My spouse had an affair- will the Court penalise him/her?.....	19

What will the Court do with the Family Home? - I want to continue to live in it.....	20
Can the Court make orders on assets that are not the family home?	20
Are pensions taken into account?	21
Can my spouse and I still inherit from each other after our Divorce?	21
4. Children.....	21
In granting a decree of Judicial Separation/Divorce will the Court take the children into account?	21
What is Guardianship?	22
What is custody?	22
Who will have custody of the children if we separate?	22
How will the Court decide who will be the primary carer of the children?	23
If my spouse has day to day custody of the children- can I still see them?	23
What if the Court makes an access order and my spouse won't adhere to it?	23
5. WHO PAYS MAINTENANCE	24
When I get a Divorce/Judicial Separation must I pay maintenance for my spouse?	24
Who has a duty to maintain a child?	24
How much maintenance must be paid?	24
6. HELPFUL ORGANISATIONS.....	25
7. READING LIST.....	26
FOR MORE INFORMATION	29

1. INTRODUCTION

WHO IS YOUR SOLICITOR?

Lynch Solicitors was established as John M. Lynch and Company in 1983. In 2001 it expanded and changed its name to Lynch and Partners. In September 2012 John Lynch returned to his former glory as principal of Lynch Solicitors. Today, it is one of the region's leading legal practices and provides a comprehensive and expert legal service to a wide client base. The practice is guided by its founder and principal, John M Lynch.

◆ **John M. Lynch**

John leads the Family Law team at the practice. He offers in depth knowledge of Irish family law based on more than two decades of experience working with clients in the area, combined with personal experience of the process and on-going research into Irish Family Law as it evolves. That personal experience combined with expert legal knowledge gives him a special ability to help find solutions during difficult and traumatic times.

John is well recognised and respected as one of the South East Region's leading Family Law Specialists and has extensive experience in complex Property Settlement matters and Children's matters.

John has presented many papers and seminars on Family Law issues to a wide range of audiences. He has presented a regular talkback radio show on Tipp FM on Family Law topics and has been contacted by national media publications for comment in relation to Family Law issues.

John is committed to development of Lynch Solicitor's continued excellence in Family Law and to continue being one of the most experienced and professional Specialist Family Law Firms in the South East Region.

◆ **Gillian O'Mahony**

Gillian O'Mahony, Solicitor is a key member of the Family Law team. Gillian's experience in this regard extends to advising on separation and divorce and the far-reaching legal, financial and taxation implications of marital breakdown. Gillian also has wide-ranging experience in cases involving children, non-marital cases (cohabitation) and pre-marriage advices.

Gillian has also lectured extensively in the area of Family Law at University level and has also been a regular presenter of the legal slot on Tipp FM focusing on Family Law.

WHAT HAPPENS WHEN YOU FIRST MEET WITH US?

The first consultation with you is very important. The first consultation between one of our family law solicitors and you serves as a fact finding exercise for both you and us.

Solicitors are obliged by law to discuss all options available in a separation or divorce and this is a stage to which we devote great time and energy.

We, like all other family law solicitors, are required to discuss the options:

- reconciliation.
- mediation to help have a consensus approach to your separation.
- we provide details of persons qualified to help.
- a written separation agreement.
- judicial separation as an alternative to divorce.

In addition to providing this mandatory information we record all the relevant details of your situation. We explain in detail what is involved in each of the options available and give an indication of the likely timeframe involved in resolving the situation, depending on the course of action pursued and also the likely costs involved.

Top of our agenda with all clients who have children is discussing approaches to protecting children during what is a traumatic time for both the children and adults involved.

WHAT IS COUNSELLING?

The Law places obligations on us to discuss with you the possibility of reconciliation and mediation.

We have included in this information pack the names and addresses of people qualified to help in this regard. It is important for you to remember that the evidence of marriage Counsellors and mediators is not admissible in Court. This maintains the confidentiality that is critical to ensure the benefits of availing of such assistance.

It is also beneficial for you to seek such assistance throughout this traumatic and difficult situation. It offers you a safe place to speak frankly of your problems, worries and feelings. It also gives the necessary support to make critical decisions during the process of separation. The Counsellor is there to listen without judgment and help guide you in a direction that will enable you to take positive steps for the future.

SEPARATION OPTIONS

I have made the decision to separate from my spouse, what are my options?

OPTION 1: DEED OF SEPARATION

WHAT IS A DEED OF SEPARATION?

A Deed of Separation is a document that may be drawn up and executed by the parties to a marriage, where that marriage has broken down and where the parties do not wish to have to go to Court for the purpose of agreeing the terms of the breakdown. A fundamental provision of every separation agreement is an agreement that the parties will live apart.

WHAT WILL THE DEED OF SEPARATION CONTAIN?

Usually a Deed of Separation will make provision for custody, access to children, maintenance, division of matrimonial property and Succession Act rights. The terms will be committed to writing and signed by both parties. The Deed may also deal with matters that may cause confusion in the future, such as the education of dependent children or the entitlement to apply for passports for dependent children. However, one provision that a Deed cannot deal with, without first getting Court approval, is that of an alteration of a pension.

WHAT IS ACCESS?

It is very important for the parent without day to day care of the children to see the children on a regular basis. Frequent contact is best for both parent and child. You should give thought to : how often access is to be exercised and for how long, i.e. hours weekly or a whole day; whether access includes overnight stays; whether it is to take place in the family home or elsewhere; who is to have the children for holidays. It is also important to state the circumstances in which a child may be taken out of the country and who will be the custodian of the child's passport.

WILL THE SEPARATION AGREEMENT DEAL WITH THE FAMILY HOME?

The separation agreement will deal with what ever is relevant in the circumstances. It can deal with who has ownership rights in the family home and in what shares. Who will live in it and who will pay for it? It can deal with the question of rent/mortgage payments, repairs, and improvements. It may also include provision for the transfer of the interest of one spouse to the other spouse or it can deal with the sale and disposal of the property.

WHAT IS THE LEGAL EFFECT OF THE AGREEMENT?

It is a binding enforceable legal contract.

CAN I REMARRY AFTER SIGNING A SEPARATION AGREEMENT?

The agreement does not give the right to remarry. You must qualify for and obtain a Decree of Divorce.

WHAT ARE THE ADVANTAGES OF A SEPARATION AGREEMENT?

You do not have to be separated for any period of time before you enter into a separation agreement. If there is agreement it can be drawn up and signed in a reasonable time. Since the Courts need not be involved, it is inexpensive. Most importantly, the spouses decide the terms of their separation rather than have the terms imposed by a court.

WHAT IF MY SPOUSE REFUSES TO SIGN THE AGREEMENT, WHAT CAN I DO?

Nothing. You can not force someone to sign a separation agreement.

DO WE BOTH NEED OUR OWN SOLICITOR?

The parties should each obtain legal advice. We do not act for both parties as we take the view that it is not possible to objectively advise both parties. As a Deed of Separation is a legally binding document the wording of the provisions may have serious consequences. Therefore, it is important that independent legal advice is obtained by both parties to ensure that everyone is aware of the meaning of each provision.

IF WE SIGN A DEED OF SEPARATION CAN I APPLY FOR A JUDICIAL SEPARATION

A Deed of Separation is a bar to proceedings for Judicial Separation. However, it does not act as a bar to Divorce proceedings. The Court is required in determining an application for a Divorce to have regard to the terms of a Deed of Separation entered into between the parties and which is still in force.

IF I DON'T SIGN A DEED OF SEPARATION, DO I HAVE TO GO TO COURT?

We strongly advocate a consensus approach to family law. We would recommend that litigation be the last resort and that a collaborative or structured approach be used before embarking on litigation. However, if this approach is not successful you will have to go the legal route.

OPTION 2: JUDICIAL SEPARATION

WHAT IS A JUDICIAL SEPARATION?

Following marital breakdown and a period of separation, a spouse may, under the 1989 Judicial Separation & Family Law Reform Act as amended by the Family Law Act 1995, apply for a Judicial Separation. The effect of obtaining a Judicial Separation is that both spouses are relieved of the obligation to cohabit. The spouse seeking the separation is called the Applicant and the spouse defending the separation is called the Respondent. Both the High Court and the Circuit Court have jurisdiction to hear Judicial Separations, depending on the extent of the family property.

WHAT ARE THE GROUNDS FOR A JUDICIAL SEPARATION?

- Adultery.
- A spouse has behaved in such a manner that the other spouse can no longer be expected to reside with him/her. This relates mainly to grounds of cruelty both mental and physical.
- The spouse has deserted or forced the other to leave the home at least one year before the date of the application.
- The spouses have lived apart for one year immediately before the date of the application and the Respondent consents to the application.

- No consent is needed if the spouses have lived apart for a period of three years prior to the date of the application.
- The marriage between both spouses has broken down irretrievably to the extent that the Court is satisfied that a normal marital relationship has not existed between the spouses for the period of at least one year immediately before the date of the application. This is the most common ground on which the court grant a Decree and can be used by spouse's who may be at "fault" for the break up of the marriage.

HOW DO I GET A JUDICIAL SEPARATION?

We will issue Judicial Separation proceedings in the Court. The proceedings will be in either the Circuit Court or High Court depending on the extent of the family assets. If the value of the assets is in excess of €3 million we will issue the proceedings in the High Court.

WHAT HAPPENS IF I NEED FINANCIAL HELP OR ACCESS TO MY CHILDREN OR PROTECTION FROM MY SPOUSE BEFORE THE CASE IS HEARD IN COURT?

When the application for the Judicial Separation is issued from the Court Office, the Applicant spouse may apply for both Preliminary Orders. (otherwise known as an Interim Order) in order to deal with urgent matters arising between the date of the Application and the final hearing of the Judicial Separation, which may be some considerable months down the line.

Some of the Preliminary Orders that may be obtained are:-

- A Barring Order - This means that one of the parties may no longer reside in the family home
- A Protection Order - This means that if there is any threat to your safety the Gardai can be asked to get involved.

- A Custody & Access Order - This will deal with issue around the care of the children.
- An Order for the Protection of the Family's Personal Property
- A maintenance order from the date of the application to the date of the final hearing. - At which stage it may be varied.

WHAT TYPE OF FINAL ORDERS CAN THE COURT MAKE WHEN MY CASE IS HEARD?

- A Maintenance Order for the benefit of a spouse or children, providing for either periodical or lump sum payments
- A Property Adjustment Orders providing for the transfer of family property in to the sole name of one or other of the spouses
- An Order providing for the right to occupy the family home to the exclusion of the other spouse
- An Order for the sale of family home
- An Order determining disputes as to the ownership of family property
- A Barring or Safety Order - which has the effect of barring one of the parties from the family home or ensuring ongoing protection by the Gardai.
- An Order affecting the welfare of the children, such as custody and access. It deals with who is the primary carer and what arrangements are made for the non-resident parent to see the children.
- An Order extinguishing succession rights. When married you are entitled to part of your spouse's estate in the event of death. It is not uncommon to remove such right on separation -however, this is not always the most advisable thing to do.

Option 3: Decree of Divorce

WHEN DID DIVORCE BECOME LEGAL IN IRELAND?

In November 1995, following a very controversial referendum in Ireland, the Irish constitutional ban on divorce was lifted. Following the successful lifting of this ban, the Irish legislature has now implemented the Family Law Divorce Act, 1996, which became effective in early 1997.

WE DID NOT GET MARRIED IN IRELAND- CAN WE APPLY FOR A DIVORCE IN IRELAND?

Yes, it does not matter where you got married. Before the Court will grant a Decree of Divorce sought, the Court must be satisfied that either spouse is domiciled in the State at the date of issue of the proceedings or that either spouse was ordinarily resident in the State for one year before the date of issue of the proceedings.

WHO CAN APPLY FOR A DIVORCE?

In order to successfully obtain a Decree of Divorce from an Irish Court, it is necessary to satisfy the Court that:-

1. At the date of the commencement of the proceedings, the spouses have lived apart for four out of the five previous years.
2. There is no reasonable prospect of reconciliation between the spouses.
3. Proper provision is or will be made for the spouse and dependent members of the family.

CAN I RE-MARRY AFTER I GET MY DIVORCE

Yes a Divorce entitles you to remarry.

MUST I GO TO COURT TO OBTAIN A DIVORCE?

Yes, an Irish divorce may be obtained in either the High Court or the Circuit Court depending on the extent of the family property.

DO I HAVE TO HAVE A JUDICIAL SEPARATION OR HAVE SIGNED A DEED OF SEPARATION BEFORE I APPLY FOR A DIVORCE?

No, you need only satisfy the four out of five years time period and deal with proper provision.

WHAT HAPPENS IF I NEED FINANCIAL HELP OR ACCESS TO MY CHILDREN OR PROTECTION FROM MY SPOUSE BEFORE THE CASE IS HEARD IN COURT?

As in a Judicial Separation, both Preliminary Orders and Ancillary Orders may be sought by a spouse who is seeking a Decree of Divorce. To a large extent, the divorce legislation repeats those Preliminary/Ancillary Orders available on Judicial Separations.

The Applicant spouse may apply for both Preliminary Orders (otherwise known as an Interim Order) in order to deal with urgent matters arising between the date of the Application and the final hearing of the Judicial Separation, which may be some considerable months down the line.

Some of the Preliminary Orders that may be obtained are:-

- A Barring Order - This means that one of the parties may no longer reside in the family home
- A Protection Order - This means that if there is any threat to your safety the Gardai can be asked to get involved.
- A Custody & Access Order - This will deal with issue around the care of the children.
- An Order for the Protection of the Family's Personal Property

- A maintenance order from the date of the application to the date of the final hearing. - At which stage it may be varied.

WHAT TYPE OF FINAL ORDERS CAN THE COURT MAKE WHEN MY CASE IS HEARD?

- A Maintenance Order for the benefit of a spouse or children, providing for either periodical or lump sum payments
- A Property Adjustment Orders providing for the transfer of family property in to the sole name of one or other of the spouses
- An Order providing for the right to occupy the family home to the exclusion of the other spouse
- An Order for the sale of family home
- An Order determining disputes as to the ownership of family property
- A Barring or Safety Order - which has the effect of barring one of the parties from the family home or ensuring ongoing protection by the Gardai.
- An Order affecting the welfare of the children, such as custody and access. It deals with who is the primary carer and what arrangements are made for the non-resident parent to see the children.
- An Order extinguishing succession rights. When married you are entitled to part of your spouse's estate in the event of death. It is not uncommon to remove such right on separation -however, this is not always the most advisable thing to do.

Option Four: The Collaborative Approach/Structured Negotiations

At Lynch Solicitors we have a strong commitment to the non confrontational approach to the practice of family law. We believe that confrontation is harmful not only to the parties but has a detrimental effect on children. Both John M. Lynch and Gillian O'Mahony are trained Collaborative Lawyers.

I HAVE HEARD LOTS OF PEOPLE TALKING ABOUT COLLABORATIVE LAW- WHAT IS IT?

The collaborative approach involves you, your spouse, and both solicitors making a commitment at the outset of the case, to be open, honest and transparent with each other.

HOW IS THIS DIFFERENT TO NORMAL NEGOTIATIONS?

How it differs from other forms of resolving family disputes is that it involves strictly controlled round table meetings with the parties and the solicitors in attendance (four way meetings) and a commitment on the part of the solicitors that they will not act in any contested court proceedings if the process breaks down. Essentially it rules out court as an option with a view to giving separating or divorcing couples a greater impetus to sort out their differences themselves with the assistance of their solicitors and without a third party (the Judge) imposing a solution that might be unworkable and to no one's liking. The separating or divorcing couple might be prepared to 'go the extra mile' to achieve a solution if they are in the collaborative process.

DO WE HAVE TO TRY THE COLLABORATIVE APPROACH?

There is no obligation to engage in the collaborative approach.

I WANT TO TRY THE COLLABORATIVE APPROACH BUT IF IT FAILS I WANT YOU TO CONTINUE TO ACT FOR ME?

This is possible. We can also adopt another approach known as “Structured Negotiations” a structured step-by-step approach to the negotiations with the steps to be taken being agreed at the outset with your spouse’s solicitor and without involving a commitment that we won’t act for you if the negotiations don’t work. Likewise there is no obligation to partake in face to face meetings involving your spouse though face to face meetings can be arranged if both you and your spouse feel that they would be of benefit.

HOW DO THE COLLABORATIVE AND THE STRUCTURED NEGOTIATIONS APPROACH ACTUALLY WORK?

Both approaches usually involve pre agreed steps:

1. Gathering and exchanging all information and documents relevant to the issues to be resolved. For example, if there are financial and property issues to be resolved, this phase may involve getting bank statements and a mortgage account statement. It may also involve getting a valuation of the family home.
2. When all the relevant information and documents have been gathered and exchanged, looking at the possible settlement options. In the collaborative process this will involve a four way meeting. This can be a useful exercise, particularly if there is more than one issue to be resolved. When time is set aside for the development of possible settlement options, new ideas about how to solve the issues may emerge.
3. When the option-development phase has been completed, a settlement meeting is then arranged. The purpose of this meeting is to enable you and your spouse, with the assistance of your legal representatives, to reach an agreement in relation to all the various issues. In the collaborative process this will involve another four way meeting. In the formal negotiation process the meeting may not be a face to face one rather you and your spouse will be in adjoining rooms and the solicitors will engage in the face to face bargaining.

4. If the bargaining phase of the negotiation process is successful, then the legal representatives will set out in writing the terms of the agreement reached. Depending on what is agreed, it may be necessary to go to court to get orders by consent. Because the issues are agreed this is very straightforward.

PROPER PROVISION: HOW WILL ASSETS BE DEALT WITH?

I KNOW THAT I WILL NOT BE ABLE TO AGREE ON THE DIVISION OF ASSETS WITH MY SPOUSE- WHAT WILL THE COURT DO?

When a couple decide to separate or divorce one of the primary difficulties often relates to how they divide their assets and financial responsibilities going forward.

The Court, when dealing with maintenance, pensions, property, financial compensation orders and succession rights, will look at:

- the income, earning capacity, property and other financial resources which each of the spouses concerned has or is likely to have in the foreseeable future
- the financial needs, obligations and responsibilities which each of the spouses has or is likely to have in the foreseeable future (whether in the case of the remarriage of the spouse or otherwise)
- the standard of living enjoyed by the family concerned before the proceedings were instituted or before the spouses commenced to live apart from one another, as the case may be
- the age of each of the spouses, the duration of their marriage and the length of time during which the spouses lived with one another
- any physical or mental disability of either of the spouses

- the contributions which each of the spouses has made or is likely in the foreseeable future to make.
- the welfare of the family, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other spouse and any contribution made by either of them by looking after the home or caring for the family
- the effect on the earning capacity of each of the spouses of the marital responsibilities assumed by each during the period when they lived with one another and, in particular, the degree to which the future earning capacity of a spouse is impaired by reason of that spouse having relinquished or foregone the opportunity of remunerative activity in order to look after the home or care for the family
- any income or benefits to which either of the spouses is entitled by or under statute
- the conduct of each of the spouses, if that conduct is such that in the opinion of the court it would in all the circumstances of the case be unjust to disregard it
- the accommodation needs of either of the spouses due to each of the spouses of any benefit (for example, a benefit under a pension scheme) which by reason of the decree of divorce concerned, that spouse
- will forfeit the opportunity or possibility of acquiring, the rights of any person other than the spouses but including a person to whom either spouse is remarried.

MY SPOUSE HAD AN AFFAIR- WILL THE COURT PENALISE HIM/HER?

The grounds for divorce in Ireland are based fundamentally on the length of time the spouses have been living apart. Responsibility for the breakdown of the marriage is not relevant so far as establishing a reason is concerned as divorce is based on a 'no fault' principle. However in making ancillary orders in any divorce

application the court must take many matters into account. One of the things it will look at is conduct of the parties 'where that conduct is such that in the opinion of the court it would in all the circumstances of the case be unjust to disregard it'.

WHAT WILL THE COURT DO WITH THE FAMILY HOME? - I WANT TO CONTINUE TO LIVE IN IT.

A dispute about the Family Home forms a substantial part of almost every application for Divorce/Judicial Separation. The Court must ensure that both parties' accommodation needs are met and in order to do so it is empowered to make the following property orders:

- The Court may direct that property be transferred from one spouse to another, or to any dependent family member, or to a specified person for the benefit of such a member.
- The Court can direct that one party live in the property for a certain period of time or for their life or until the youngest children reaches a certain age
- The Court can order the sale of the house and the division of the net proceeds of sale in certain proportions.

CAN THE COURT MAKE ORDERS ON ASSETS THAT ARE NOT THE FAMILY HOME?

Yes, The Court is empowered to look at all property – assets in the name of one spouse, in the name of one spouse and others, in joint names and trust property. It makes what are called Property Adjustment Orders. It can be made on stocks, shares, art, livestock, businesses, investments, savings, holiday homes, commercial properties and cars or boats. The Court has wide discretionary powers in relation to making such property adjustment orders as it deems necessary in each individual case.

ARE PENSIONS TAKEN INTO ACCOUNT?

Yes, a pension is a valuable matrimonial asset and on Divorce/Judicial Separation is seen in the same way as any other asset. The Family Law Acts require pension benefits to be taken into account in arriving at a financial settlement in the case of a judicial separation or divorce. The Courts can decide whether or not it is appropriate to split pension rights in order to regulate a couple's financial affairs.

CAN MY SPOUSE AND I STILL INHERIT FROM EACH OTHER AFTER OUR DIVORCE?

The Succession Act 1965 provides that by virtue of his or her status as a spouse, a widow or widower is granted an automatic share in the estate of his or her deceased spouse. If a testator dies leaving a spouse only, then that spouse is legally entitled to one half of the estate. If a testator dies leaving a spouse and children, then the spouse has a legal right to one-third of the estate. A spouse is essentially provided for out of the estate of the deceased spouse regardless of the terms of his or her will. However once the divorce is granted the parties are no longer spouses and therefore the right to inherit under the Succession Act 1965 is not available. However the court can make an Order providing for a divorced spouse out of the deceased spouse's estate if it thinks it appropriate and if such an application is made within the time limit set down in the Family Law (Divorce) Act 1996. The Court cannot make such an Order where the spouse seeking the Order has remarried.

CHILDREN

IN GRANTING A DECREE OF JUDICIAL SEPARATION/DIVORCE WILL THE COURT TAKE THE CHILDREN INTO ACCOUNT?

Before granting any Judicial Separation or a Decree of Divorce Decree the Court's main priority will be to ensure that proper provision is made for the

welfare of the children. Welfare in this case is taken to include religious, intellectual and moral welfare.

WHAT IS GUARDIANSHIP?

Guardianship means the rights and duties of parents in respect of the upbringing of their children. Guardianship rights entitle a parent to make important decisions regarding that child's upbringing, for example, deciding on the child's religion, education, medical treatment and general rearing.

The natural mother of a child is automatically a guardian of the child. A father who is married to the mother of his child also has automatic guardianship rights. This applies even if the couple married after the birth of the child.

However, a father who is not married to the mother of his child does not have automatic guardianship rights to that child. If the mother agrees for him to be legally appointed guardian, they must sign a joint statutory declaration. If the mother does not agree, he must apply for this status to the Court. More often than not, the Court will grant guardianship if satisfied that he has a history of involvement with the child.

WHAT IS CUSTODY?

Custody means the right to the physical care and control in respect of the upbringing of a child on a day to day basis. Married parents residing together are the joint guardians and custodians of their children. After separation they continue to be joint custodians. However, one parent may take the role of primary carer which involves the child/children living with them and staying with the other parent less frequently.

WHO WILL HAVE CUSTODY OF THE CHILDREN IF WE SEPARATE?

There is little reason to change the joint custody arrangement post separation. The practical issue is not about custody but simply an issue as to who should be the primary carer.

HOW WILL THE COURT DECIDE WHO WILL BE THE PRIMARY CARER OF THE CHILDREN?

The Court will deal with the issue of custody/access & primary carer on the facts – for example, the history of the parties involvement in the care of the children, the needs of the children and the resources of the parents to care for the children - but its primary concern is the child's welfare and it will consider this under the headings of religious, intellectual and moral welfare.

IF MY SPOUSE HAS DAY TO DAY CUSTODY OF THE CHILDREN- CAN I STILL SEE THEM?

Yes, the parent who does not have the day to day care of the child is entitled to access to children. Access is defined as the right of the parent, with whom the child does not live, to spend time with the child. It can include the right to have the child stay overnight either occasionally, on alternate weekends or during school holidays and the right for parent and child to go on holidays together. In many cases, custody, access and care arrangements for a child are agreed informally between parents. Where agreement cannot be reached either parent can make an application to the court to decide the terms and conditions which will govern arrangement for children.

WHAT IF THE COURT MAKES AN ACCESS ORDER AND MY SPOUSE WON'T ADHERE TO IT?

Once an access order is made by the Court then any failure or refusal by the custodial parent to comply with such an order (i.e. allow access) is deemed to be in contempt of court and can result in term of imprisonment and/or fine or can be the basis for an application to vary to order and remove the day to day custody from the primary carer.

WHO PAYS MAINTENANCE

WHEN I GET A DIVORCE/JUDICIAL SEPARATION MUST I PAY MAINTENANCE FOR MY SPOUSE?

There is a legal responsibility in Ireland on both spouses to maintain each other and any children in accordance with their means. Maintenance can be paid periodically (i.e., weekly or monthly) or in a lump sum. Under Irish law, there is no clean break from the obligation to support one's spouse and children.

WHO HAS A DUTY TO MAINTAIN A CHILD?

Both parents have a responsibility to maintain their children. This responsibility exists regardless of who has custody. Responsibility to maintain a child ceases when the child is 18 years of age, unless the child is in full time education. In this case responsibility continues until such education is completed or until the child attains 23 years, whichever is sooner. The duty to maintain children exists independently of any maintenance arrangement between the spouses in respect of one another. If the child has a mental or physical disability to such a degree that it will not be possible for the child to maintain him/herself fully, then there is an obligation to support them indefinitely.

HOW MUCH MAINTENANCE MUST BE PAID?

The District Court may not award more than €500 per spouse and €150 per dependent child per week. There is no such limit on the amount of maintenance which the Circuit Court can order. The amount payable is calculated based on the needs and income of both parties. There is no precise method for establishing the amount but the Court will try to strike a balance between the needs of one party and the income of the other.

Each party must disclose their finances to the court and the judge will consider all of the family's circumstances when making a maintenance order.

It is well recognised that following the break-up of a marriage each spouse has fewer resources, and the approach of the courts to maintenance has sometimes been to apply hardship equally between the couple.

HELPFUL ORGANISATIONS

- Marriage & Relationship Counselling Services, 38 Upper Fitzwilliam Street, Dublin 2. Telephone: (01) 6785256
- Knockanrawley Resource Centre, Counselling and Family Therapy Centre, Mary Street, Tipperary Town, Co. Tipperary. Telephone (062) 52688
- Accord, Marriage Counselling, St Mary's Pastoral Centre, Irishtown, Clonmel, Co Tipperary Telephone: 052 24144
- Family Mediation Service, 1st Floor, St Stephens Green House, Earlsfort Terrace, Dublin 2 . Telephone: (01) 6344320
- Family Mediation Service Hibernian House, 80A South Mall, Cork Telephone: 021-252200
- Family Mediation Service 1st Floor, Mill House, Henry Street, Limerick Phone: 061-214310
- Cuan Saor- Women's Refuge, Parnell Street, Clonmel, Co Tipperary Freephone:1800-576757
- Barnardos National Children's Resource Centre, Christchurch Square, Dublin 8. Telephone: (01) 4549699
- Clonmel Community Parent Support, Room 3, Clonmel Community Resource Centre, Kickham Lodge, Kickham Road, Clonmel. Telephone: 052 28194

- Teen Between 38 Upr Fitzwilliam Street, Dublin 2.
Ireland. Ph: 1890 380 380 & 01 6785256
- Rainbows National Office, Loreto Centre, Crumlin Road, Dublin 12
Telephone : (01) 4734175 www.rainbowsireland.com.__Rainbows is a peer support programme to assist children, adolescents and adults who are grieving a separation of other painful transition in their family
- The Family Support Agency, St. Stephens Green House, Earlsfort Terrace, Dublin 2.
Telephone: (01) 611 4100 Fax: (01) 6760824
www.familysupport.agency@welfare.ie

READING LIST

- **When Parents Separate; Helping your Children Cope** .John Sharry, Peter Reid and Eugene Donohoe ,Veritas.
- **Mom's House, Dad's House**, Isolina Ricci, Ph.D. , SimonsSays.com, Simon & Schuster.
- **Moms House, Dads House; Making shared custody work**, Isolina Ricci PHD Collier MacMillan Publishers London
- **End the Struggle and Dance with Life**, Susan Jeffers, Cosomet Bbooks.
- **The Family Love it or Leave It**, Tony Humphries, New Leaf.
- **A Different Kind of Discipline**, Tony Humphries, New Leaf.
- **Achieving Emotional Literacy**; Claud Steiner: Bloomsbury.

- **Life and How to Survive it:** Robin Sykner and John Cheese: Vermillion.
- **A complete guide for parents who are separated, divorced or remarried.** Isolina Rice PHD Published by Simon & Schuster
- **Anthony Clare on men, Masculinity in crisis ;** Chatto v. Jwindus London
- **The Heart of Parenting: How to raise an emotionally intelligent child;** John Gottman Bloomsloppy

GLOSSARY OF TERMS

Applicant: The spouse who starts the legal proceedings is called the Applicant and the spouse defending the separation or divorce is called the Respondent

Contingency Pension: A pension scheme in which a benefit is payable if the member dies while in relevant employment and before reaching normal pensionable age as provided for under the rules of the scheme - Otherwise known as a "death in service scheme".

Decree: A decision or judgment of a Court delivered on the final hearing of a matter – e.g. Decree of Nullity or a Decree of Divorce.

Nullity: A declaration by a Court that a person was never legally married.

Pleadings: The formal Court documentation in writing which sets out the grounds for bringing an action against another.

Proceedings: the term for the case before the Court. See Pleadings.

Primary Carer: the parent having the day to day responsibility for children.

Respondent: The spouse seeking the separation is called the Applicant and the spouse defending the separation is called the Respondent

Retirement Pension: A pension scheme in which a benefit is payable to the member spouse upon his/her retirement.

Succession Right: An automatic minimum right which one spouse is entitled to in relation to the estate of the other deceased spouse, in accordance with the Succession Act, 1965. Such a right depends on whether the deceased spouse died testate or intestate.

Trustees of a Pension: Persons authorised by law to invest monies in order to provide for a pension benefit in the future.

FOR MORE INFORMATION

Tel: 052- 612 43 44

Address: Jervis House,
Parnell Street,
Clonmel,
Co Tipperary

Email: info@lynchsolicitors.ie

Website: www.lynchsolicitors.ie



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ATTENTION

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