

400 staff, 17 departments, 9 Legal Services Commission franchises: we have the expertise you need.

Whatever the area of law where you need help, you will find a committed Duncan Lewis lawyer to guide you through. With 17 departments and 400 staff sharing 65 nationalities, we have the specialist expertise to ensure you get the best possible legal advice.

Child Care Law

Our Solicitors specialise in dealing with Local Authority applications to remove children; Discharge of Care Orders; Child Protection Conferences; Emergency Protection; Secure Accommodation and Child Protection (Police and Social Services); Adoption; Guardianship & Surrogacy and all child – related matters.

Family & Divorce

We advise on all aspects of family law. We are specialists in preparing pre-nuptial agreements. We advise on straight forward divorce and civil dissolution matters (including for “same sex marriages”) – as well as the most complex cases of ancillary relief involving disputes of property and other assets. We assist with Mediation and frequently advise on cases which have an international element, including obtaining forced marriage protection orders.

Community Care

The team ensures that adults, children and carers have access to community care services from Local and Health Authorities, including housing and financial support under community care legislation.

Conveyancing

We use the most up to date technology to deliver an efficient and cost effective service.

Crime

Our Crime Department are on call 24 hours a day, 7 days a week, 365 days a year on 07957 331436 or 07956 374988.

Debt & Insolvency

We can assist in all debt, bankruptcy and liquidation matters.

Employment

We act for both employers and employees in connection with all aspects of the employment relationship, including drafting employment contracts as well as procedure manuals. We also represent clients in Employment Tribunal claims relating to dismissals and discrimination claims.

Housing

Specialising in homelessness, disrepair, attending courts for Possession Proceedings, harassment, housing benefit issues and much more.

Immigration & Managed Migration

Our extensive knowledge and vast experience in general immigration, business immigration and asylum law is second to none.

Litigation

Our expert litigation lawyers can act for you in connection with all types of legal dispute.

You can find more information about our Family & Child Care team and the services they provide, by contacting us directly on our telephone number 020 7923 4020 or by visiting our website at www.duncanlewis.com

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Duncan Lewis

Giving people a voice

A Legal 500 Firm

Also in Birmingham, Islington, Romford, Slough, Southall, Watford and London (EC2).

Family & Child Care Law



Duncan Lewis

Giving people a voice

A Legal 500 Firm

When legal decisions influence the lives of your family, you want the best.



Legal Aid Specialists

www.duncanlewis.com

Email: contact@duncanlewis.com

24hr Emergency

Crime: 07920 077057

Domestic Violence: 07920 077054

Mental Health Helpline: 0203 114 1124

Family & Child Care

Going through a divorce or separation, or dealing with an issue involving children is one of the most stressful and emotional periods in a person's life and it is at times like this when you can rely on the Duncan Lewis Family & Child Care department.

The approach that our Family/Child Care team adopt is both empathetic and non-judgmental. We are simply there to guide you through the legal process in order to achieve the best possible resolution for your particular circumstances. Due to our multi-cultural team we are able to understand and accommodate the socio-cultural issues that often accompany the breakdown of a relationship. As we have a culturally diverse client base, we frequently handle cases that involve international elements of Family and Child Care Law.

We have a dedicated team of over 40 trained practitioners who are able to provide expert professional advice and assistance for all types of family matters. All of our Directors are either advanced members of the Law Society Family Law Panel and/or members of Resolution and Children Panel members, which means that they are recognised as being specialists in Family and Child Care Law. The majority of our senior solicitors are also Panel Members and some also have Advanced Panel Membership. We currently have a large team of Children Panel Members, including Solicitor Advocates.

We are committed to building long term relationships with private, public and charitable organisations in the family child care arena in order to deliver the best quality legal service to our clients. We listen to our clients' needs, carefully exploring all the issues surrounding their case, and then provide them with effective and realistic advice.

The areas that we specialise in include the following:

- Adoption
- Divorce / Judicial Separation / Nullity / Civil Dissolution
- Domestic Violence and Emergency Applications to the Court for Injunction Orders

- Financial matters ancillary to the divorce civil dissolution or separation (the division of assets and income)
- Forced marriage protection orders
- International Child Abduction
- International Family Law
- Pre-Nuptial Agreements & Separation or Cohabitation Agreements
- Private Children Disputes (such as contact arrangements and residence)
- Public Law (applications involving Local Authorities such as Care Orders and Emergency Protection Orders)
- Special Guardianship
- Surrogacy

Our teams are supported by IT systems which are designed to facilitate the best possible communication between you and our team. Direct email, which many of our team can access when out of the office, and direct dial telephone numbers ensure that you have access to expert legal advice when you need it. Our teams support each other in order to ensure that we take best advantage of having one of the largest Family and Child Care departments in London. We always have trained experts on hand to deal with the most urgent matters – without compromising the ongoing client care to our existing clients.

You can find more information about our Family & Child Care team and the services they provide, as well as all other areas of law that Duncan Lewis can help advise you on, by contacting us directly on our telephone number 020 7923 4020 or by visiting our website at www.duncanlewis.com



Divorce, Ancillary & Mediation

Divorce

The issues arising out of a breakdown of a relationship can often be difficult to resolve. We adopt a constructive and non-confrontational way of assisting you.

We are able to explain all procedures involved in Divorce, Judicial Separation, Nullity proceedings and civil partnerships in plain English so that you are aware of every step and we are always at hand to answer your queries.

We will explain the best options available to ensure that your Petition proceeds and finalises as soon as possible. This then enables you to deal with other issues that arise through Divorce and Separation such as children and financial issues.

Ancillary Relief

Dealing with the financial issues arising from divorce, civil dissolution or separation can be both complicated and frustrating. We will advise you of your legal options with sensitivity and understanding. All of our clients are represented by solicitors who specialise exclusively in financial and property matters of all levels of complexity. Our team have expertise in all areas of Ancillary relief following Divorce, Civil Dissolution or Judicial Separation such as:

- Adjustment of Property Ownership
- Freezing of Assets
- International Assets
- Maintenance (Including Fees Order applications)
- Pensions
- Pre-Nuptial Agreements
- Property disputes between Unmarried Couples
- Separation Agreements

In some cases, the lack of financial assets can make it difficult to ensure that adequate provision is made for all parties, including taking into account the needs of children. In others, the financial assets themselves maybe complicated to divide – such as in the case of pensions, property owned outside of the UK and Offshore trusts. We can also advise on the division of the family home and other assets for unmarried couples.

We will be able to give you a framework which the court would apply to your circumstances and then will work efficiently to ensure you obtain a fair entitlement of the assets.

Pre-Nuptial Agreements

Although pre-nuptial agreements are not technically enforceable there is an increasing amount of case law that shows that the court will take pre-nuptial agreements into account when dividing matrimonial assets in the event of a divorce particularly where the marriage has only been of a short duration and where there are no children involved.

We are experts in drafting agreements which help you to protect assets acquired prior to the marriage, particularly where the marriage has only been of a short duration and where there are no children involved.

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Mediation

Family mediation is an avenue of resolving family disputes without resorting to court. Mediation is a process which involves an impartial third person assisting those involved in family breakdown to communicate better with one another. It assists the parties to reach their own solutions and make informed decisions about some or all of the issues relating to or arising from the separation or divorce including children, finance or property irrespective of their relationship - whether they are married, in a civil partnership, living together, separated a long time ago or have never lived together.

Our team of Mediators at Duncan Lewis assist parties to reach early settlement with any family dispute that may arise. Whilst mediation can be explored at any time, we at Duncan Lewis encourage reducing conflict at a time when the family dynamics are very distressing. This not only impacts the parties, but those closest to them i.e children, grand parents and family members, which is why our team of mediators assist the parties in reaching decisions that are acceptable to them both. Throughout the Mediation process the parties may continue to obtain legal advice should they wish.

Our team of Mediators are able to quickly assist you to resolve:

- decisions about separation or divorce
- housing and property arrangements
- arrangements for care of children and contact arrangements
- financial support following the breakdown of your marriage or civil partnership

From April 2011 the Court requires the parties to attend a Mediation Information Assessment Meeting (MIAM). The purpose of this meeting is to establish whether there is scope to resolve matters without Court intervention and/or whether any other alternative dispute resolution is available to the parties.

Once an agreement has been reached, this shall be recorded by the mediator and incorporated into a written document. If the parties wish, they can formalise the agreement through their Solicitors. Public Funding (aka Legal aid) may be available for mediation, and if you qualify the whole process can be without any cost to the parties involved. Require Assistance? email: familymediation@duncanlewis.com

Domestic Violence & Children

Domestic Violence

We assist victims of domestic violence without delay. We are able to explain the remedies available to protect you and your children. Non-Molestation Injunction Orders can be obtained in order to protect you and your children from deliberate conduct. These can restrain conduct including repeated threats of violence, intimidation, aggressive behaviour, harassment, verbal abuse and controlling behaviour as well as physical violence.

We are able to make applications on an emergency basis and are able to obtain Orders without notice to the other side. The Family Law Act 1996 is designed to ensure that victims are protected and we are able to do so by offering same day appointments and if necessary we can attend Court at short notice. If you do not meet the criteria to obtain protection under the Family Law Act 1996, the Protection from Harassment Act 1997, may be able to assist, particularly in cases of "stalking".

Orders can also be obtained to regulate the occupation of any home that the parties have occupied. These orders can prohibit, exclude, suspend and restrict one party's rights in relation to the family home.

We aim to provide the highest possible level of emergency advice and representation. Where appropriate we will explore other options to assist.

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Forced Marriage Protection Orders

We are able to provide specialist advice to assist in seeking remedy where a forced marriage is due to take place or has taken place without full and free consent of parties. Our specialist team are able to obtain emergency orders to protect. Many of our team are conversant with various cultures and backgrounds and fully understand the necessity of obtaining appropriate orders.

Children

Following the breakdown of a relationship it may be necessary to resolve a number of issues relating to any child of the family. Such issues may include:

- A parent's application to remove a child permanently from the jurisdiction of England and Wales
- An unmarried father wishing to obtain parental responsibility
- Arrangements for contact between the child and the non resident parent
- International Child Abduction - dealing with a threat by one parent to abduct a child from the other parent's care or threat of removal from the jurisdiction of England and Wales

- Deciding which parent the child should live with (Residence)
- Financial applications for the benefit of the child/children
- Resolving specific issues that relate to a child's upbringing, such as choice or change of religion, school or surname

We appreciate the importance to the client of resolving children matters and ensure that the best interests of the children are paramount.

We act for mothers, fathers, step parents, grandparents and other members of the family.

Child Care – Public Law

Child Care relates to cases where the Local Authority is involved due to concerns about the care of a child. In some cases this may result in a child's name being placed on the child protection register, which usually arises when social services enquiries conclude that a child is at a continuing risk of suffering or is likely to suffer significant harm. Any agency or professional (such as a GP) may initiate a conference but the social services department are responsible for providing a written report. The process includes drawing up an inter-agency child protection plan and how this can be implemented.

We represent parents and assist them to express their views and participate in the conference and speak on their behalf subject to the chair's permission. We are there to support parents and provide them with advice and empower them during this difficult time.

Child Protection Conferences can be a daunting experience for any parent, as they are faced with a number of professionals who are discussing what decisions should be made about their children. Emergency situations arise that may lead to the Local Authority putting in place protective measures for a child,

including removal from its carer. We have the experience to provide advice and support with care and sensitivity and we have vast experience of dealing with families from different cultures or special needs.

We have experience with dealing with the police and Local Authority, when they exercise their protective powers, including emergency protection orders, care and supervision orders, and secure accommodation orders. We assist parents, family members, the child and Court Appointed Children's Guardians in putting their cases forward.

We act for parents, family members and children in applications for adoption, placement orders, discharge of care orders and secure accommodation orders.

We can also assist parents whose children are in voluntary care or who have been served with notice of intention to commence care proceedings by the Local Authority.

We have experienced staff who will support and advise clients through this difficult time. Many of our staff are accredited Law Society Panel Members.

We also specialise in acting for children, parents and family members in other disputes i.e. where parents have separated and there are problems in facilitating contact or a dispute over where the child should reside. We have the expertise to represent the child separately, if required through their Children's Guardian (called Guardian ad Litem). The court recognises the importance of a child's relationship with their absent parent and the child's wishes and feelings, especially during their formative years. Sometimes this process may involve another expert, such as psychiatrists and psychologists to help identify the difficulties as well as the solutions to move matters forward.

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Child Care

Adoption

Adoption is the alternative for children who are unable to live with their parents. We are able to provide expert advice to adoptive parents and the birth parents who are considering adoption. We are further able to assist step parents and able to provide advice as to the step parents rights to integrate the child into their new family.

We are further able to advise in relation to international adoption, in particular to families who are wishing to adopt from outside the United Kingdom, or families from abroad who wish to adopt from the United Kingdom.

We work closely with adoption agencies and local authorities in relation to all aspects of Adoption in or outside the United Kingdom.

International Child Abduction

We have a specialist team that deals with International Child Abduction and has experience acting in child abduction cases under Hague and non Hague proceedings. Duncan Lewis is a member of the Lord Chancellor's Child Abduction and Contact Panel and has the experience to assist in all cases where there is a risk of child abduction or where abduction or removal has taken place.

Other areas of Child Care

We are able to provide specialist advice in relation to the following:

- Contact with a Child in Care
- Child Abduction
- Discharge of Care Orders
- Guardianship
- Placement Orders
- Special Guardianship Orders
- Surrogacy
- Wardship

Contact our specialist team for expert advice. We provide advocacy at all levels of Court to ensure a consistent and professional service.

We have had several high profile cases reported, a small selection are set out at the back of this brochure.

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Reported Cases

R v Local Authority and Others [2011] EWCA Civ 1451

In relation to a child, subject to care proceedings, a Supervision Order was granted to the local authority and a Residence Order to the mother. The father had sought unsupervised contact. A risk assessment concluded that he remained a risk to children and should only have supervised contact with the child. The father sought a second expert's opinion. His application was refused and he was granted supervised contact. He unsuccessfully appealed the decision to refuse his application for a second expert's opinion in the Family Proceedings Court and again from the Family Proceedings Court to HHJ Hughes QC. He therefore appealed to the Court of Appeal.

The basis of the appeal was that the trial judge and the first appeal court should have allowed the application for a second expert and failure to do so amounted to an error of law; invalidated the exercise of judicial discretion and thereby limited the father's contact to take place on a supervised basis only.

S.55 (1) of the Access to Justice Act 1999 was satisfied by virtue of the fact that the appeal raised questions of, the correct approach to be taken by the court on an application for a second expert's report on what is asserted to be a key issue in the case; the time at which an application for a second expert is considered; the approach in considering the application and the distinction between the way the issue is determined by the civil and family courts.

Appeal dismissed. Held: that it was apparent that the judge at first instance had made findings of fact based upon the evidence before the court; that the trial judge at first instance had appropriately exercised his discretion and that judges in family proceedings decide each application for a second opinion on the merits by reference to the Overriding Objective, the Practice Direction and the Family Proceedings Rules 2010. In each case it is a matter of judgment, and the crucial question remains for the judge to consider, "do I need this report in order to enable me to deal justly with the case? What will the additional expert add to the case?"

Re: D (Children) [2011] EWCA Civ 1743

Duncan Lewis represented a 4 month baby that had been presented to hospital with bruising to the side of her face. Further examinations revealed a brain injury non-accidental in nature; a skeletal survey showed that there were also old healed rib fractures. The baby with her 4 year old sister were placed in foster care voluntarily. The local authority applied for the interim care orders, which were not opposed for the baby but were for the older child. The parents submitted that if the bail conditions changed, their proposal was that the mother would live in the family home and care for the baby there with the father agreeing not to return until after the fact-finding hearing.

The judge in the first instance, following the parents' plan, made an interim supervision order to the elder child. The local authority, supported by the Guardian sought to appeal against the refusal of an interim care order. They submitted that the judge gave the wrong weight to the factors that needed to be considered in determining what order to make and that her decision involved differentiating between the parents without any sound basis on which to do so.

The Court of Appeal had to consider whether the judge exercised her discretion appropriately on the facts of this case. Part of that exercise was to consider that having to live away from a parent also inevitably carries a risk of harm to the child, albeit emotional harm. Unfortunately the judge differentiated between the parents, viewing one of the parents as more of a potential risk to the elder child, than the other parent. This was integral to her decision as in the penultimate sentence of her judgment where she says that she makes the interim supervision order "on the basis that the mother has agreed that she will be living separate from the father and we need to make sure that is recorded in the order". She then stated that the father should have supervised contact thereby not treating him in the same way as the mother. If he had been treated in the same way, he would have been given unsupervised contact. Therefore the Court of Appeal ruled that a significant foundation of the judge's order, had gone. It followed that

the judge's discretion was exercised in part on a wrong basis. The appeal was allowed and an interim care order was made with the contact for the father and the mother continuing at the same level.

S (A Child), Re [2011] EWCA Civ 812 (15 July 2011)

This is an appeal (for which permission was given on paper by Ward LJ on 10 May 2011) against an order made by Her Honour Judge Judith Hughes QC on 21 March 2011 refusing an application by the appellant for a residential parenting assessment pursuant to section 38(6) of the Children Act 1989 (the Act). Key case that raises a number of important issues for practising family lawyers and for judges.

Re Z (Unsupervised Contact: Allegations of Domestic Violence) [2009] EWCA CIV 430

This was an appeal by the mother against an order for unsupervised contact by the father for the two youngest children. The firm acted on behalf of the mother. At the first instance the Court ordered direct contact despite mothers allegations of domestic violence. We successfully challenged the decision and the Court of Appeal overturned the order for direct contact and emphasised the importance of fact finding hearings.

Care: Re X and Y; Islington London Borough Council v Z (2007) EWHC 1862

This was the case in which the Local Authority had sought to become involved in a family, notwithstanding the fact that there was no available evidence to support the view that the child of the family had suffered a non-accidental injury. Although the Local Authority placed an order before the Court to indicate that they sought to withdraw from the case with agreement from the parents. Although the parents did agree to proceed by this route, the court indicated that it would have been prepared to hold a fact-finding hearing to exonerate the parents by that means if they had wished to do so.