

# Relationship Breakdown

Splitting up or getting divorced can be one of the most difficult and stressful events a family may go through. It's natural to feel confused about what to do next.



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Inside Front

# Introduction

Splitting up or getting divorced can be one of the most difficult and stressful events a family may go through. It's natural to feel confused about what to do next.

In this booklet, we draw attention to the possible services and sources of information available to you in the event of a relationship breakdown, whatever type of relationship you are in.



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# Definition of Terms Used

In this booklet, we define these terms in the following ways:

## **A Civil Partnership**

- A civil partnership gives legal recognition to a relationship between two people of the same sex who are not related and who wish to have their gay or lesbian relationship recognised.

## **Dissolution**

- The legal termination of a civil partnership

## **Divorce**

- The legal termination of a marriage

## **Cohabitees**

- People who live together as a couple without being married or having a civil partnership.

## **Someone who has Parental Responsibility: -**

1. A child's mother or father
2. An unmarried mother
3. An unmarried father whose name appears on the birth certificate of a child born after 5th December 2003
4. Anyone who has a parental responsibility agreement or a parental responsibility order



# Counselling

Counselling is a type of talking therapy that allows a person or in certain occasions a couple to talk about their feelings and emotions in a confidential and safe environment.

Counselling aims to help you deal with & overcome issues that are causing you pain or making you feel uncomfortable. Often when a relationship has broken down you are flooded with a range of emotions such as grief, anger, depression even anxiety which are all normal, and talking to a counsellor can help you to find your own insight and a clearer understanding of what you are feeling at that time.

For counselling to be effective you need to build a trusting and safe relationship with your counsellor which can take a little time but be assured that the counsellor is there for your needs and will do their best to help, in most cases it does take a number of sessions before you can start to see and feel a difference so a regular commitment is required in order to make the best use of therapy.

During your sessions you will be encouraged to express your feelings and emotions freely, your counsellor may be able to help you recognise the effects of other people and their actions and help you to explore ways of coping with them. It can be a great relief to talk to and share your worries and fears with someone who acknowledges your feelings and is able to help you to reach a positive outcome/solution.

As well as Relate there are many independent counsellors who offer relationship counselling, couples counselling and even offer help and advice to young people whose parents are separating. Whilst your GP can refer you for counselling this can often be a lengthy process which is often due to the high demand and availability through the NHS, however you are able to make contact with an established and independent counsellor yourself, you may even find in your initial conversation that your counsellor is even willing to work out a payment plan for yourself and if this is of concern it should definitely be discussed at this stage.

Whilst counselling is there to offer advice on how to help you emotionally they are not qualified to offer you medical, legal or financial advice.

# Collaborative Family Law

In a collaborative process, the emphasis is on helping to find solutions to the problems that occurred following relationship breakdown. The aim is to promote the long-term interests of both partners and to help couples work towards an agreed settlement without going to court.

Each partner has their own specially trained collaborative lawyer. Both partners and their lawyers take part in meetings together around the table to negotiate the best outcome for all. Emphasis is placed on the well being of any children. To succeed, collaborative law practice requires good faith on all sides and can provide a quicker route to achieving agreement. Negotiated settlements can then be formalised into a legally binding agreement or court order.

The collaborative approach allows you to benefit from expert legal advice without the threat of court action during negotiations and keeps open channels of communication between partners. One of the benefits of collaborative practice is that it isn't driven by a court imposed timetable and can be built around your family's individual needs.

For further information visit [www.resolution.org.uk](http://www.resolution.org.uk) or your local collaborative law group.

# Mediation

Mediation is a guided negotiation by an impartial third party helping each of you to communicate and explore the issues which are important to you. Throughout the process you are encouraged to find ways to address your present and future needs, rather than dwell upon who may have been right or wrong in the past. The mediation process is without prejudice so that on the rare occasion that a settlement is not reached, litigation may continue without either of you worrying that you may have disclosed anything that the other could use in court.

Mediation is about the practical and legal arrangements you and your former partner make about your children, home, possessions and finances and offers a way of settling disputes after your marriage or relationship breaks down.

Mediation is especially beneficial where children are concerned because it may dramatically shorten the period of time required to reach agreement for their wellbeing, thus reducing anxiety, conflict and distress.

## **How Does Mediation Work?**

Both parties are offered an initial appointment, on a one-to-one basis, to determine the suitability of your case for mediation and to assess whether you may be eligible to receive your mediation for free. At this meeting we will also explain to you the process and principles of mediation which will hopefully allow you to make an informed decision about whether you wish to enter into the mediation process. If both parties agree to enter into the mediation process, an appointment will be made where the mediator meets with you both together in one and a half hour sessions until the process is complete. This can take between 6 weeks and 6 months, depending on the complexity of the issues that need to be resolved and the willingness of the parties to adopt a give and take approach.

Upon agreement/proposals being reached, the Mediator will draw up a Memorandum of Understanding or a Summary Letter. You may each take a copy of these proposals reflected in your Memorandum of Understanding or Summary Letter and a copy of your Open Statements of Financial Information to your respective solicitors for their comments, before it is submitted to the court in the form of a consent order. If it is appropriate to do so, the court will make orders confirming your arrangements.

The government now expects anyone who wishes to start court proceedings regarding family matters, e.g. orders for contact with a child, or financial orders in divorce proceedings, to first have a meeting with a qualified mediator. This regulation has been introduced because it is generally believed that it is better for couples to reach their own agreements rather than go to court, which tends to exacerbate the conflict and is usually more expensive than mediation. In our experience most couples reach agreement in mediation. Where mediation is deemed unsuitable or one of the parties does not wish to mediate, anyone making an application to court will need to have court documents endorsed by a mediator.

The Legal Aid Agency (LAA) has made some changes to their regulations regarding payments for mediation. Now, where one party to a mediation is legally aided, the LAA will pay for the first session of mediation for the party who is not eligible for funding.

# Splitting up when you have been living together

In England and Wales, if you aren't married or in a civil partnership then the laws which govern married couples and civil partners, don't apply. It's a common misconception that people who live together have a "common law marriage" which gives them legal rights. The rules governing division of assets between people who cohabit without a marriage or civil partnership are very complicated although the court can still make decisions if there are issues concerning children. To avoid conflict in the event of separation it is possible for couples living together to agree the terms of a Cohabitation Deed outlining how they intend to organise their finances and anything else that's important to them.

If you are living with someone and your relationship is breaking down, you may find Advicenow's Living Together campaign a useful source of information about your current rights - [www.advicenow.org.uk/guides/survival-guide-living-together-and-breaking](http://www.advicenow.org.uk/guides/survival-guide-living-together-and-breaking)

## Separation

Sometimes couples separate but don't divorce, perhaps for religious reasons. They may still wish to reach a settlement about financial and children's issues but can't access the court without divorce proceedings. In those circumstances it is possible for the couple to enter into a Separation Deed setting out the terms which have been agreed. If there are later divorce proceedings, the terms of the deed can be transferred to a legally binding court order.

It is also possible for couples who don't want to divorce but do want to obtain a legally binding court order reflecting their financial settlement, to Judicially Separate. This is a procedure akin to divorce, which results in a decree of Judicial Separation from the Court but doesn't actually end the marriage.



# Divorce or Dissolution

Divorce or dissolution formally brings a marriage or civil partnership to an end, leaving both partners free to re-marry or enter into another civil partnership if they wish. To obtain a divorce or dissolution the court must be satisfied that the relationship has broken down irretrievably.

Partners can prove irretrievable breakdown if they have lived apart for two years and they both want to obtain a divorce/dissolution; if one partner admits adultery (divorce only); if one partner has behaved unreasonably; if one partner has deserted the other for a period in excess of two years or if the partners have been separated for more than five years (consent not needed).

In England and Wales a couple must have been married or in a civil partnership for at least a year before divorce or dissolution proceedings can be started.

To start a divorce/dissolution, a petition is filed at the court outlining the grounds for divorce/dissolution. If the other partner doesn't object to the divorce an application can be made for decree nisi, the first stage of dissolution of the marriage/civil partnership. Decree nisi is granted if the court is satisfied that there are grounds for divorce/dissolution and that the petition isn't contested. The final stage of the divorce/dissolution, decree absolute, can be applied for six weeks after decree nisi.

The length of time it takes to complete a divorce/dissolution varies from case to case but is usually around four to six months. It is possible to stop divorce proceedings at any time before decree absolute.

Divorce, dissolution and separation involve emotional and practical issues as well as legal issues. The lives of the whole family are affected by the outcome, so the way in which a settlement is reached can be almost as important as the settlement itself. This is another reason why parties should consider consulting an experienced solicitor or mediator.

Only the individuals concerned can solve all of the problems that relationship breakdown can bring. A good solicitor or mediator, who adopts a constructive and conciliatory approach, can help to reduce a lot of the distress associated with the end of a marriage or civil partnership.

It is possible for couples to enter into a pre-nuptial agreement outlining what they would expect to happen or be entitled to in the event of their relationship breaking down. Pre-nuptial agreements can be upheld by the court if there is a dispute when the relationship breaks down.

Some couples deal with all issues (legally ending the relationship and reaching agreement about children and finances) at the same time, but it is possible to resolve financial and children's issues first and then legally end the relationship or to legally end the relationship first and resolve financial and children's issues at a later date.





## Financial Issues

The financial implications of a divorce or separation can be serious in terms of the practical and emotional impact on the couple and their children. Coping with moving house, finding work, arranging childcare, having less money, changing schools and leaving friends are just some of the adjustments parents and children have to deal with.

Divorce or dissolution proceedings can include the court making financial orders. If both partners agree on all relevant financial issues i.e. dividing assets and pensions, paying maintenance and taking responsibility for debts, then a judge can be asked to make agreed financial orders reflecting the settlement agreed, without anyone having to attend court. If everything can't be agreed, then a judge can be asked to make an order after hearing what both partners and their lawyers have to say.

It's also important to think about making a Will or revising your existing Will when relationships break down (see our separate "Making a Will and Funeral Planning Guide" for more information).

The Child Maintenance Options Service (see list of Further Contacts and Useful Organisations section) tells you about your options for organising child maintenance with your ex-partner.

If you or your ex-partner have debts in joint names, you should consider seeking specialist debt advice. Citizen Advice (see list of useful contacts) is a good place to start.

## Welfare Benefits

If your circumstances change due to the breakdown of your relationship, you may be able to claim various means tested or non-means tested benefits. You should speak to your local Jobcentre Plus or visit [www.gov.uk](http://www.gov.uk) to find out more about your entitlement.

## The Home

It often follows that, after separation, one of the former partners will leave the family home. If the house is owned in joint names then one partner can't sell it without the consent of the other. Where the partners can't agree and have tried mediation or collaborative practice, the court can be asked to decide what happens.

The court's first concern will be for the proper housing of any children involved. The court can order that the parent caring for the children be allowed to stay at the home until the children complete full-time education, to try and make sure the children have a suitable home.

The court also has the power to order the transfer of the property to either party, or it can order the house to be sold, now or in the future and can decide how the sale proceeds are divided between the former partners.

Gingerbread publishes some useful factsheets on "Action to take when a relationship ends" or "Housing Options" which outline your housing rights in the event of relationship breakdown.

## The Children

One out of two relationships today breaks down permanently and, in many cases, this involves children. In fact, almost half of couples divorcing in 2013 had at least one child aged under 16 (of those 21% had a child under the age of five and 64% had a child under the age of 11). Children are affected by the breakdown of their parents' relationship. It is important for parents to remember that whilst they may be pre-occupied with their own problems, they continue to be the most important people in their children's lives. Children are invariably frightened and confused by the break-up of the family. Children can misunderstand what is going on unless parents tell them what is happening, how they are involved and not involved and what will happen to them. With care and attention a family's strengths can be mobilised during this period of change and children can be helped to deal with the resolution of their parents' conflict in a constructive and positive way.

Children are known to most effectively cope with their parents' separation if they know that their parents will still be their parents and remain involved with them even though the relationship is ending and the parents won't live together in the future. Court cases or pressure on a child to "choose sides" can be particularly harmful for the youngster and can add to the potential damage caused by family break up.

Research shows that children do best when parents co-operate on behalf of the child (see the Children and Family Court Advisory and Support Service (CAFCASS) leaflet 'The Parenting Plan' which can be downloaded free of charge from the CAFCASS website). In mediation, child consultation can be arranged, giving children a voice in their parents' separation or divorce.

CAFCASS safeguards and promotes the welfare of children involved in family court proceedings. To minimise the trauma of bitter disputes the court usually try to deal with cases concerning parents' contact with their children as quickly as possible. The court sometimes asks a CAFCASS officer or Social Worker to meet with the parents, as well as any children old enough to take part. A report can be produced making recommendations to the judge who then makes a decision based on all of the circumstances of the case.

The CAFCASS website has a range of useful tools, publications and checklists to help you safeguard your child's emotional wellbeing throughout the family breakup. There are also a number of leaflets on the website written for children.



## Rights of Grandparents

Grandparents often ask if they have access rights or contact rights to their grandchildren. They do not have legal rights as such, but they can apply to the Court for contact arrangements to be made.

In some cases, relationships between a grandparent and their son/daughter-in-law may have broken down and it is not practical to approach them directly for a discussion. In such cases, a referral to mediation is an option, where an independent mediator will try to reach an agreement. However, all parties must agree to this approach.

You may be able to get a court order to access to your grandchild, if a parent stops you from seeing them. Going to court should be a last resort, as it can be expensive, take a lot of time and be disruptive for the child.

# Parenting Plans

Parenting plans are written documents that can help you to plan for your child's future after a divorce or separation. It is now possible to download Parenting Plans online -these encourage parents to think about issues such as: -

- Spending time with both parents
- Communication
- Children's Surnames
- Living Arrangements
- Special days and holidays
- School and out-of-school activities
- Religious and cultural upbringing
- Healthcare
- Childcare arrangements

# Taking Children Abroad

The consent of all those with parental responsibility is required if either parent wants to take a child out of the UK - no matter how short the trip may be - unless a court gives permission.

If your child has been taken out of this country without your consent, or where there is a real risk this might happen, you should consult a solicitor specialising in this particular area of law.

The parent that the child lives with must have permission from the court if they want to take the child abroad permanently.

Reunite is a specialist charity dealing with parental child abduction and international custody disputes. Reunite's main objective is to provide a telephone advice line offering practical advice and information. Their advice is impartial and confidential to one or both parents involved in a dispute, though they aren't able to negotiate on your behalf. Reunite provides specialist advice to lawyers and other interested professionals working in this area. They are able to put you in touch with a lawyer specifically trained in cases of child abduction and international custody disputes.



# Domestic Violence

If you are being physically, mentally or sexually abused by someone you live with, or are being threatened by them, that is domestic abuse or violence.

A national 24 hour helpline (**0808 2000 247**) operated by Women's Aid and Refuge is available to anyone suffering domestic abuse. There is also a Male Advice and Enquiry Helpline for men experiencing domestic abuse Men's Advice Line Tel: **0808 801 0327**.

In an emergency always call the police by dialling **999**.

The Government defines domestic violence as "Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality".

Where a partner has suffered domestic violence the court can make an injunction order requiring a partner not to use or threaten violence or to leave the house and not return or to keep away from the neighbourhood. The terms of the order will vary depending on the situation.

Protection from domestic violence is available to all couples (and their children) "living together as man and wife" or same sex partners, regardless of whether or not they're married. Many kinds of domestic violence are criminal offences. The police take all domestic violence very seriously. Most forces have specially trained, experienced officers who will listen and speak to a victim separately from their partner. Women can ask to be seen by a female officer. The police can, if asked, arrange medical aid, transport and a place of safety. Their first priorities are the victim's safety and well-being and, if applicable, the safety and well-being of their children.

Throughout this Guide we have explained the importance of agreeing arrangements for children to spend time with both parents, but there are instances where remaining in contact with a violent or abusive parent is not in the child's best interests, especially if they regularly witness or experience harmful conflicts firsthand. Whilst losing contact with a parent can be devastating, the non-abusive parent may have to take legal steps to prevent contact until safeguards can be put in place to ensure the child doesn't experience violence in the future.

## Checklist

### If you and your partner are separating, you may need to inform:

- Your landlord or housing office (if you live in rented accommodation)
- Your mortgage lender
- Your local housing benefit office
- Your benefits office / local Job Centre Plus
- Your tax office (HMRC), particularly if you are receiving tax credits
- Your council tax office (England and Wales) or Rates Collection Agency (Northern Ireland)
- Utility companies (gas, electric, water and telephone)
- Your child(ren)'s current school and future school, if you will have to move due to your relationship breaking down. You should also discuss with the school what information you would both like to receive and how you would like to deal with attendance at school events (e.g. Parents' Evenings), etc. and let the school know if there will be changes to who drops off and collects your child
- Your bank or any other financial institutions where you have a joint account (if you are concerned that your partner may attempt to withdraw all the money, you may be able to arrange for the account to be frozen)
- Hire purchase or credit companies
- Insurance companies
- Private pension companies
- The Post Office (to arrange for your mail to be redirected)
- Your doctor, dentist, health visitor and any other healthcare providers



## Further Contacts and Useful Organisations

Please note that many of the organisations listed below can now be contacted or followed through social media websites such as Facebook and Twitter.



### Association for Shared Parenting

Support and advice for parents after separation or divorce.

**Tel: 0300 121 0131**

Branches located across the midlands

**Email: [info@sharedparenting.org.uk](mailto:info@sharedparenting.org.uk)**



### Broken Rainbow UK the LGBT domestic violence charity

Support for lesbian, gay, bisexual and trans\* (LGBT) people experiencing domestic violence and abuse.

**Helpline: 0300 999 5428**

Opening times are Monday to Friday 10am - 5pm with extended hours until 8pm on Monday and Thursday.

**Email: [help@brokenrainbow.org.uk](mailto:help@brokenrainbow.org.uk)**

**[www.brokenrainbow.org.uk](http://www.brokenrainbow.org.uk)**

### Children & Family Court Advisory and Support Service (CAFCASS)

**Tel: 0300 456 4000**

**Email: [webenquiries@cafass.gsi.gov.uk](mailto:webenquiries@cafass.gsi.gov.uk)**

**[www.cafcass.gov.uk](http://www.cafcass.gov.uk)**

### Child Maintenance Options

Is a free service that provides impartial information and support to help separated parents make decisions about their child maintenance agreements.

**Helpline: 0800 988 0988**

**Email: via online enquiry form**

**[www.cmoptions.org](http://www.cmoptions.org)**



### Civil Legal Advice

For free, independent, confidential and impartial advice visit

**[www.adviceguide.org.uk](http://www.adviceguide.org.uk)**

Or find your local bureau at

**[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)**

### College of Mediators

**Tel: 0845 65 85 258**

**Email: [admin@collegeofmediators.co.uk](mailto:admin@collegeofmediators.co.uk)**

**[www.collegeofmediators.co.uk](http://www.collegeofmediators.co.uk)**



### Families Need Fathers

**Helpline: 0300 0300 363**

**Email: [fnf@fnf.org.uk](mailto:fnf@fnf.org.uk)**

**[www.fnf.org.uk](http://www.fnf.org.uk)**

### Family Lives

Advice and information on parenting issues

**Helpline: 0808 800 2222**

**Email: via online enquiry form**

**[www.familylives.org.uk](http://www.familylives.org.uk)**



### Family Mediators' Association

**Helpline: 01355 244594**

**Email: via online enquiry form or [info@thefma.co.uk](mailto:info@thefma.co.uk)**

**[www.thefma.co.uk](http://www.thefma.co.uk)**

### Gov.uk

Find a legal advisor

**[www.gov.uk/find-a-legal-adviser](http://www.gov.uk/find-a-legal-adviser)**

#### Gingerbread

**Helpline: 0808 802 0925**  
**Email: via online enquiry form**  
**www.gingerbread.org.uk**

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#### The Law Society

Online database search to find a solicitor in your area  
**Email: via online enquiry form**  
**www.lawsociety.org.uk**

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#### Marriage Care

Christian charity offering advice/counselling on marriage and on relationship breakdown  
**Tel: 0800 389 3801**  
**020 7371 1341 - National Support Team**  
**www.marriagecare.org.uk**

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#### Men's Advice Line

A confidential helpline for any man experiencing domestic violence and abuse from a partner (or ex-partner).  
**Tel: 0808 801 0327**  
**Email: info@mensadviceline.org.uk**  
**www.mensadviceline.org.uk**

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#### Ministry of Justice

Find a Mediation Service/Legal Advisor  
**www.familymediationhelpline.co.uk** and  
**www.gov.uk/find-a-legal-adviser**

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#### National Association of Child Contact Centres

Provides safe, neutral centres for children of separated families to spend time with one or both parents, or other family members  
**Tel: 0845 4500 280**  
**Email: contact@naccc.org.uk**  
**www.naccc.org.uk**

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#### National Debtline

**Tel: 0808 808 4000**  
**Email: via online enquiry form**  
**www.nationaldebtline.co.uk**



#### National Domestic Violence Helpline

**0808 2000 247 (24 hours)** This is a freephone number  
**www.nationaldomesticviolencehelpline.org.uk**

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#### National Family Mediation

The largest provider of family mediation services in England and Wales  
**Tel: 0300 4000 636**  
**via online contact form**  
**www.nfm.org.uk**

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#### OnePlusOne

Strengthen relationships by creating resources that help families and frontline workers tackle relationship issues early.  
**Tel: 020 3096 7871**  
**Email: info@oneplusone.org.uk**  
**www.oneplusone.org.uk**

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#### The Parent Connection

OnePlusOne's online service which provides professional separation advice and co-parenting support, helping separating parents with the effects of divorce on children and their families.  
**www.theparentconnection.org.uk**

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#### Relate

**Tel: 0300 100 1234**  
(find the nearest Relate and talk through options with a trained consultant)  
**www.relate.org.uk**  
You can do a postcode search for a local Relate centre for face-to-face counselling

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#### Resolution

**Tel: 01689 820 272**  
**Email: info@resolution.org.uk**  
**www.resolution.org.uk**

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#### Reunite International

Advice, information and support about parental child abduction  
**Advice line: 0116 2556 234**  
**Email: reunite@dircon.co.uk**  
**www.reunite.org**





### Shelter

Advice and information about housing options and rights after a relationship breakdown  
**Tel: 0808 800 4444**  
**Email: [info@shelter.org.uk](mailto:info@shelter.org.uk)**  
**[www.shelter.org.uk](http://www.shelter.org.uk)**

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### Tax Credit helpline

**Tel: 0345 300 3900**  
**[www.gov.uk/government/organisations/hm-customs/contact/tax-credits-enquiries](http://www.gov.uk/government/organisations/hm-customs/contact/tax-credits-enquiries)**

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### Women's Aid

**Tel: 0808 2000 247** - Freephone - 24-hour National Domestic Violence Helpline (run in partnership between Women's Aid and Refuge)  
**Email: [helpline@womensaid.org.uk](mailto:helpline@womensaid.org.uk)**  
**[www.womensaid.org.uk](http://www.womensaid.org.uk)**

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### Useful web addresses

**[www.actionforchildren.org.uk](http://www.actionforchildren.org.uk)**  
**[www.barprobono.org.uk](http://www.barprobono.org.uk)**  
**[www.divorceaid.co.uk](http://www.divorceaid.co.uk)**  
**[www.divorceresource.co.uk](http://www.divorceresource.co.uk)**  
**[www.gov.uk](http://www.gov.uk)**  
(for information about benefits and taxcredit entitlements)  
**[www.iasservices.org.uk](http://www.iasservices.org.uk) (Immigration Advice Service)**  
**[www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)**  
**[www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)**

IBC



The information provided in this publication is given in good faith and is in no way connected to or affiliated with any of the organisations contained within this publication. The information supplied should not be taken as legal advice.

The content is also not intended to replace other healthcare professional advice that you may be encouraged to seek.

Professional advice should be sought where appropriate. Any rates and information contained within this publication was correct at the time of print in July 2018.

As benefit entitlements change regularly, you are advised to contact the benefits enquiry line or your local jobcentre plus for information about current entitlements.

OBC

