



Top 10 *family law* questions



JOHNSON LEGAL
SOLICITORS

Meet our *legal experts*

Based in the heart of Edinburgh, Johnson Legal Family Law consists of four highly skilled Family Lawyers with over 30 years' experience in Family Law. We provide solid legal advice to ensure our clients get the outcome they deserve.



Beverley

Head of Family Law & Director

beverley@johnsonlegal.co.uk



Hayley

Senior Associate

hayley@johnsonlegal.co.uk



Nyree

Senior Associate

nyree@johnsonlegal.co.uk



Eilidh

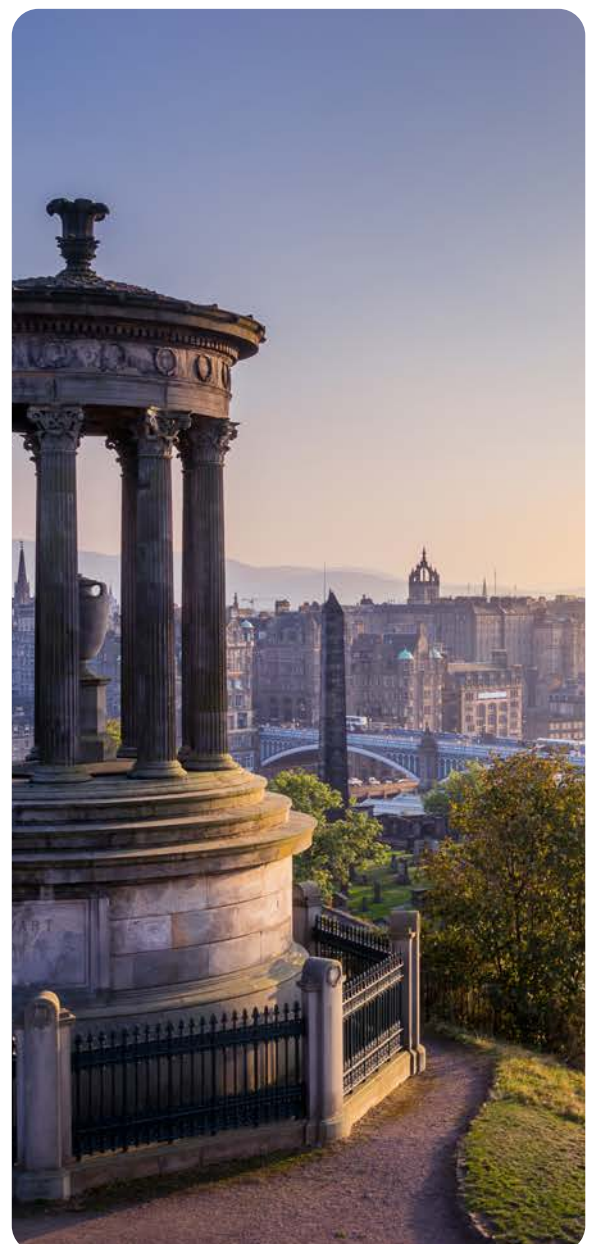
Senior Solicitor

eilidh@johnsonlegal.co.uk

Request your free, no-obligation call

We offer a free 15-minute telephone call with one of our solicitors to discuss how we can help. Call us on 0131 622 8477.

 [Request free call](#)



The top 10 *family law* questions

Whether you're navigating future plans with your spouse, facing challenges in co-parenting, or considering a divorce, we've compiled expert answers to our most commonly asked questions.

If you feel divorce is the next step for you, please see our checklist on page 7 to help you with the process.



Divorce Lawyer On Cheating

Beverley Johnson, Head of Family Law

[WATCH VIDEO](#) →

QUESTION 1

On what grounds can I ask my spouse for a divorce?

In Scotland, to apply for a divorce you must be able to prove that your marriage has broken down permanently as a result of one of the following reasons:

- Your spouse has committed adultery
- Your spouse has behaved in such a way that you cannot reasonably be expected to continue to live with them as their spouse
- You and your spouse have not lived together as a couple for one year, and your spouse consents to divorce
- You and your spouse have not lived together as a couple for two years or more

QUESTION 2

Who gets care of the children after a divorce?

If both parents are named on a child's birth certificate, they will have equal parental rights and responsibilities. Generally, parents are able to avoid going to court by agreeing on the important matters about the care and upbringing of their children:

- Where the child will live
- How much time the child will spend with each parent
- How each parent will financially support the child
- Arrangements for taking the child abroad on holiday

If you can reach agreement, then we can make certain parts of the agreement legally binding by having a written contract.



Do my children have a say in where they will live after we separate?

Hayley Mitchell, Family Lawyer

[WATCH VIDEO](#) →

QUESTION 3

How long does it take to get a divorce?

Financial matters must be resolved by agreement or court order before a divorce is granted. Contested divorces typically take at least nine months and often longer. If financial issues are settled or not present, a divorce can proceed in a matter of months with a legal basis established.



How long does a divorce take?

Hayley Mitchell, Family Lawyer

[WATCH VIDEO](#) →



Am I in a financial position to get a divorce?

Nyree Conway, Family Lawyer

[WATCH VIDEO](#) →

QUESTION 4

Am I in a financial position to get a divorce?

During divorce proceedings, you'll incur legal fees and need to address financial matters like property, pensions, and investments. Scottish Law enables fair division of marital assets, potentially covering legal fees from the settlement. We can help you to work out how to finance your divorce.

QUESTION 5

If I divorce my spouse, will I automatically get 50% of their assets?

In Scotland, assets and liabilities which are considered to be matrimonial property should be fairly divided between the spouses when they divorce. However, the court will consider all circumstances that could mean a 50/50 split did not reflect fairness:

- Has either spouse suffered a financial disadvantage to the other spouses' financial advantage?
- Will either spouse leave the marriage with a more significant financial burden for caring for the children (under 16) of the marriage?
- Has either party inherited assets or brought debts into the marriage that should be considered separate to the matrimonial property?



If I've taken a career break to look after my children, will my assets be split 50/50?

Beverley Johnson, Head of Family Law

[WATCH VIDEO](#) →

QUESTION 6

Should I get a cohabitation agreement if I'm living in my partner's property, and we're not married?

Without a cohabitation agreement, your rights regarding a property owned by your partner are limited. Such an agreement can outline financial contributions and protect assets, particularly if one partner moves into property owned by the other. Think of it as insurance for asset division in case of separation, reducing the costs of disputes significantly.



If you own a business, a prenup could save you thousands of pounds

Beverley Johnson, Head of Family Law

[WATCH VIDEO](#) →

QUESTION 7

Will a prenup or a postnup protect me financially in the event of a separation?

Marriage is a significant financial commitment, involving sharing savings, pensions, homes, inheritance and debts. Signing a prenup before marriage or a postnup after marriage avoids costly divorce proceedings and ringfences assets you might want to keep separate from your spouse in the event of a divorce. Creating these agreements when you still like each other ensures protection in the future if needed.

QUESTION 8

Can my ex-partner legally keep me away from my child?

Legally, no. Both mothers and fathers share equal rights and responsibilities for their child, entitling them to meaningful contact. While there are circumstances where it may be appropriate for a child not to have contact with one parent, there are also instances where a parent is unjustly denied contact to their child by the other parent. In either scenario, seeking guidance from a Family Lawyer is crucial.



Can a mother legally keep a child away from their father?

Nyree Conway, Family Lawyer

[WATCH VIDEO](#) →

QUESTION 9

My ex won't let me come to my child's school activities, what can I do?

Legally, you have the right to attend any of your child's school activities. If there are challenges with your ex-partner, your solicitor can communicate your intentions to them, ensuring your child is prepared for both parents' attendance. The school can also assist in arranging separate seating for both of you at events. If this situation persists, a Family Lawyer can provide tailored guidance.



My ex won't let me come to my child's school activities, what can I do?

Nyree Conway, Family Lawyer

[WATCH VIDEO](#) →



Can I take my child on holiday without my ex-partner's permission?

Nyree Conway, Family Lawyer

[WATCH VIDEO](#) →

QUESTION 10

Can I take my child on holiday abroad without my ex-partner's consent?

For separated parents traveling internationally with their child, a notarised travel consent letter is strongly advised. It serves as proof of permission from the other parent and is crucial in cases of preventing complications at passport control. Many destinations including USA, Canada, Portugal, Italy and Australia may require these documents. A Family Lawyer can assist in notarising a consent letter.

Visit our *video library*

For more advice, we've compiled the most frequently asked questions that we receive on a regular basis to help you to better navigate the world of law.

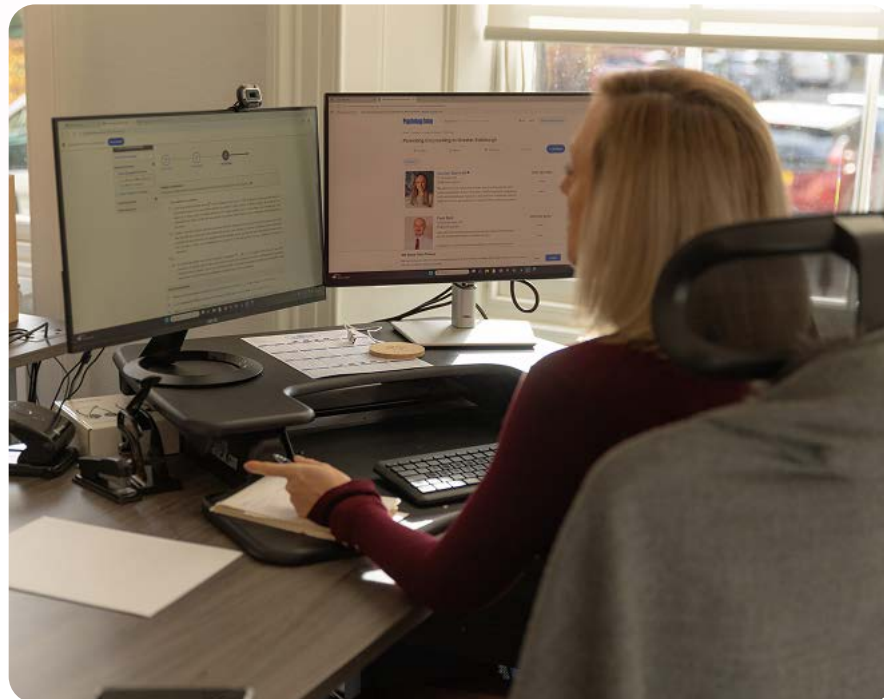
[VIEW ALL VIDEOS](#) →

Divorce *checklist*

One of the first steps you can take in surviving the process of divorce is to get organised. Making a plan is also a great way to help distance yourself from the overwhelming emotion you may feel.

Here are some of the records that are crucial for you to acquire and secure:

- Tax returns going back at least two years
- Credit card and bank statements going back two years
- Basic Personal Information (birth certificate, wedding licenses, addresses, employment history)
- Life insurance
- Retirement statements
- Lists of personal property
- Documents on items owned before marriage
- Documents for items inherited



Request your free, no-obligation call

We offer a free 15-minute telephone call with one of our solicitors to discuss how we can help. Call us on 0131 622 8477.



[Request free call](#)



Visit our *Wellbeing Hub*

At Johnson Legal, we care about our clients. We recognise that a dispute with your spouse or partner is one of the most stressful life events you may ever deal with.

[VISIT THE WELLBEING HUB →](#)



Submit anonymous questions to our *Q&A platform*

We recently launched our first anonymous Q&A platform to provide even more people with the guidance and support they need.

[SUBMIT A QUESTION →](#)

View our recent *client testimonials*

90% of our work comes from our customer recommendations & referral. Those who trust us - whether through reputation or first-hand experience - know the difference of working with a kindred spirit.

[VIEW OUR TESTIMONIALS →](#)

"Johnson Legal have in-depth experience of the Scottish legal system, and also the personal touch of a small team who will handle your case. Beverley and colleagues are patient, understanding and supportive, providing sound and clear advice at the times when you require it most. I felt reassured that my concerns were listened to, and my interests were being protected throughout the process."



JOHNSON LEGAL

SOLICITORS

Johnson Legal Family Law
31 Rutland Square
Edinburgh
EH1 2BW

 [0131 622 8477](tel:01316228477)

 beverley@johnsonlegal.co.uk

