FAMILY LAW SERVICES

ANGLO-FRENCH PRACTICE

Burgess Mee

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We are an award winning family law firm. We are experts in our field and are based in Clapham Common and Moorgate with meeting rooms in Hammersmith.

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If you are a French national living in England or British national living in France, our expert team of lawyers and mediators can help with a range of family law issues. These might include entering into a prenuptial agreement before marriage, the financial issues arising on relationship breakdown, and the arrangements for any children such as where they should live and be educated.

We have specialist English lawyers who have significant expertise in navigating the differences between the family justice systems in England and France. Three partners in the team are French speakers – Rachel Freeman, Kirsty Morris and Peter Burgess. Antonia Mee has significant experience in representing French clients living in London.



WHAT ARE THE DIFFERENCES BETWEEN THE TWO SYSTEMS?

In many cases involving international families there is a choice of where to bring formal legal proceedings. It is important to take advice as early as possible to establish which is the best option for you. France and England have very different procedures and outcomes on separation and divorce. In England, the first person to file proceedings does not necessarily secure the right to proceed here, but speed is still an important factor. The English court will decide a 'forum dispute' by looking at which country the couple have closer connections to. In France, the EU Regulations about jurisdiction and choice of law still apply and are determined largely by who files first.

In France, a marriage is governed by one of four matrimonial property regimes. The spouses choose which matrimonial property regime should apply to their marriage. This determines how their assets should be treated during the marriage and how they should be divided on death or divorce.

England is a common law jurisdiction which means that, although there are procedural rules, the law changes according to decisions made by judges. In determining how to redistribute property on divorce, the English court looks at what is 'fair' by reference to each party's needs, whether one or other party should be compensated and how assets should be shared (largely determined by whether they have been generated during the marriage).





CIVIL PARTNERSHIPS AND THE PACTE CIVIL DE SOLIDARITE ('PACS')

There are important differences between England and France in relation to civil partnerships. A PACS is a type of civil partnership which confers rights on the parties according to French law. It does not confer the same financial entitlements as marriage. In England, however, if the relationship breaks down, the dissolution of a French PACS is treated as a dissolution of a civil partnership by the English court, giving rise to the same financial entitlements as a marriage upon divorce.

WHAT ABOUT THE MOVEMENT OF CHILDREN?

When a relationship between a child's parents ends, one of the parents might want to return to their home country with the child. Under English law, a child cannot leave the country temporarily or move to another country permanently without the permission of both parents (except if there is a "lives with" order, the parent with the order can take the child abroad for up to a month without the other parent's consent). Which jurisdiction deals with children issues depends partly upon where the child lives. We have considerable experience in advising clients about taking children on holiday abroad and permanent relocations to and from France and French speaking countries. Taking early advice can help to plan such a move.

HOW IS CHILD SUPPORT DEALT WITH?

In England financial child support is dealt with by the Child Maintenance Service (the 'CMS') and the court. If one party decides not to agree to pay child support it may be necessary to enforce child support payments across borders. We can advise on how best to do this. In England it is also possible to make a claim for capital on behalf of a child if the parents are not married. We can advise on the impact of this for a French individual.

PRE AND POST NUPTIAL AGREEMENTS

Where there are connections with both England and France, or there is the possibility of living in one or the other, it is important that any pre or post nuptial agreement works in both jurisdictions. One system or the other may be more or less advantageous and the property regimes that apply in France automatically can lead to unforeseen consequences on death and divorce. We can advise on ensuring that any agreement reached between the parties works to the fullest extent possible in both England and France to make sure that there is no dispute should the marriage not last.

Peter Burgess acted in the recent case of AH v BH (2024) which involved a dual national businessperson with significant business interests in France. The court carefully considered the interpretation of an English agreement. All members of our team have advised clients on these important cross border issues.



IF YOU WOULD LIKE TO SPEAK TO ONE OF OUR ANGLO-FRENCH EXPERTS, PLEASE CONTACT US AT THE DETAILS BELOW.



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All have successfully advised French clients here and British clients in France and other Francophone countries such as Monaco and Switzerland. Rachel Freeman studied French law at Poitiers University and spent six months of her training contract at Clifford Chance Paris. Kirsty Morris studied French law as part of her degree and did a summer internship at a specialist family law firm in Paris. Peter Burgess is a Fellow of the International Academy of Family Lawyers, a global network of recognised specialists in family law. Antonia Mee regularly acts for French clients who live in London and are getting divorced. They often own real estate in France or wish to move with their children to France after divorce. We have a strong network of family lawyers in France and other experts such as accountants and private client lawyers, with whom we work closely.

Burgess Mee

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