

This year has thrown up so many uncertainties for parents and children across so many aspects of life. Here, JOANNE BROWN from established Hong Kong law firm Tanner De Witt answers readers' questions on COVID-19 and family law.



Families & the Pandemic



“What are the implications of COVID-19 on families in Hong Kong? Can I be separated from my children during quarantine?”

Yes, under the current guidelines this is a possibility. However, there's a window for exceptional circumstances where children are involved. We can advise you on how to avoid being separated from your children if this affects you.

“I want to move home but my husband doesn't want to leave Hong Kong. Can I relocate with my children without his consent?”

We're seeing more enquiries related to the removal of children from Hong Kong in separated or divorced families. A parent wishing to relocate permanently with children should make an application to the Family Court if the spouse hasn't given consent. These are known as relocation applications. If one parent removes a child from the jurisdiction of Hong Kong or retains a child outside the jurisdiction without the other's consent, it may amount to child abduction. There are efficient legal procedures to arrange the return of the child to Hong Kong.

“I want to get married but the uncertainty around COVID is worrying me; how can I protect my assets?”

Our family and private client team can help you protect your assets through setting up a trust or a will (or both). We also advise on pre-nuptial agreements; these are becoming more popular here and globally. There are a number of requirements that a pre-nuptial agreement fulfil: one is independent legal representation for both parties. We work with other law firms in Hong Kong and internationally so both parties can reach a fair and reasonable agreement. And we advise married couples on post-nuptial agreements should their financial situation change.

“I'm worried that somebody I know is experiencing domestic violence under lockdown; what can I do?”

Reports of violence in the home have spiked since the outbreak of COVID-19. If you've experienced or are experiencing physical violence or threats of it, psychological violence, sexual, emotional, financial or verbal abuse or harassment of any kind in your home, an urgent application can be made to the court for an injunction against your abuser. There are also various shelters in Hong Kong for seeking refuge in urgent circumstances.

“Should I get a divorce or just separate?”

Making the decision to divorce is often difficult. There are many reasons why married couples may opt to separate rather than progress legal proceedings to divorce. Whether it's for religious reasons, a desire to maintain the status quo and a family construct for the sake of children, or simply because a couple needs to take time before starting legal proceedings, the decision to be separated but remain legally married can have legal and financial implications which must be properly considered. Our family law team can talk you through your options.

UPDATES FROM THE TANNER DE WITT EMPLOYMENT TEAM

The Hong Kong Government has recently implemented several “family friendly” changes to the law. For example, the long-awaited increase in statutory maternity leave from 10 to 14 weeks has been gazetted; it should come into force before 2021. A further amendment to Hong Kong's discrimination legislation has also been gazetted making it unlawful for a person to discriminate against a woman on the ground that she is breastfeeding; this change will not come into force until 19 June 2021. *Ⓐ*



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