

More than ever, people are choosing to live between California and London, or relocating permanently from one location to the other, whether to work in Hollywood, Silicon Valley, San Francisco or beyond. For example, British Airways now operates a daily flight direct to San Jose (home to Adobe, Apple, Cisco, eBay, Google and Intel) in addition to its daily schedule to San Francisco and Los Angeles.

Surprisingly, there are actually a number of similarities between the cultural make-up of Los Angeles and London. Both are home to hundreds of thousands of millionaires, both have vast and eclectic industries which make them global financial powerhouses and both act as second homes for a wide variety of nationalities ranging from France, Russia and Iran to Korea.

The melting pot which arises in each of these jurisdictions can result not only in complicated tax positions but also, and importantly, complex international family issues.

In keeping with their sunny dispositions, the Californians operate a 'no-fault' policy for the grounds for divorce. The primary basis for commencing a divorce in the state of California is 'irreconcilable differences', which is simply a box on a form that needs to be checked.

The court does not take either party's behaviour into consideration in making its orders at any time during the divorce proceedings except, perhaps, for the purposes of child custody and, in limited circumstances only, legal fees.

In contrast, England relies on a 'fault' system. One party must petition for divorce (or the dissolution of a civil partnership) and, in doing so, must prove there has been an irretrievable breakdown of the marriage evidenced by one of five facts: either adultery, unreasonable behaviour or certain periods of separation.

The most common fact relied upon in England is unreasonable behaviour with the court accepting relatively anodyne allegations. Most English lawyers are uncomfortable with the present fault-based approach, which can result in greater acrimony between couples.

Neither Californian nor English law recognises the concept of common-law marriage. Couples who cohabit, regardless of the length of time of the cohabitation, will not be entitled to seek financial relief from their partner in family court. In short, neither party has a legal obligation toward the other for financial support and financial claims are limited to those made on behalf of children or, in a limited number of cases, for a legal or equitable interest in property.

Both jurisdictions afford some recognition to cohabitation agreements. While California will uphold these agreements as long as they abide by California's contract laws (so-called Marvin actions, after the legal precedent set by actor Lee Marvin), the position in England is not as clear. In England, the agreement may not be upheld although it may provide useful evidence of a common intention held by the parties.

In English law, child and spousal support (also referred to as maintenance or periodical payments) are treated entirely separately. A party's obligation to provide child support is a duty owed to a child, not the child's primary carer. Child support is calculated by reference to the Child Support Act 1991 and jurisdiction for a claim is managed by the Child Maintenance Service.

The formula for calculating how much child support is due is made by reference to the non-resident parent's gross income and the number of nights a year the child spends with that parent (ie the parent with whom the child does not primarily live). The English court will not have jurisdiction for child support, save in exceptional circumstances such as when the non-resident parent's gross income exceeds £156,000 per annum.

Upon the breakdown of a marriage, one party may be required to provide maintenance to the weaker financial party. In England, the decision as to whether or not to make an order for maintenance is not calculated by a formula. A decision is entirely discretionary and is made by reference to a number of factors including the parties' earning capacity, resources and standard of living.

Traditionally, courts have awarded the dependent spouse joint lives maintenance (ie until their death or remarriage). However, it is certainly not guaranteed in all cases and recent court decisions have led to an increased emphasis on moving the weaker financial party to self-sufficiency.

When approaching support in California, the laidback, take-your-chance approach is confined to the surf. For the Californians are very clear: without certain limited circumstances, child support is calculated by software known as DissoMaster, which takes into account the parties' incomes and amount of custodial time with the children.

The software is also used to determine temporary spousal support on a limited basis. It has been in place for some twenty years, proving that when it comes to leveraging technology to make life simpler, clearer and more straightforward, the Californians know their stuff.

One of the biggest differences between California and English law is the division of property upon divorce. In England, property is redistributed at the discretion of the court following consideration of factors set out in section 25 of the Matrimonial Causes Act 1973. The court is invited to consider these factors in conjunction with three key principles which have emerged as a result of judicial interpretation of section 25: needs, sharing and compensation.

Regardless of how property is introduced in to the marriage (ie by way of gift or inheritance), it may form part of the matrimonial pot if it can be demonstrated that a spouse requires the property to meet his or her needs. The parties' needs will always trump equal sharing of assets. In the event that the parties' needs are met, then the concept of sharing will prevail. The ultimate objective of the court is to give each party an equal start on the road to independent living.

In California, property acquired during the marriage with either party's work efforts and labour is presumptively community property and, upon divorce, the community property is divided equally. However, property that is acquired before marriage, or after marriage via gift or inheritance, is separate property and remains the property of the acquiring spouse, as do the returns earned by that separate property.

In practical terms, this often means that California is more favorable for the spouse who made his or her fortune prior to marriage or who has family money that he or she did not earn during the marriage.

In England, all family-related matters proceed in private (save for those matters which the presiding judge concludes should be heard in public). In particular, in financial proceedings, the court firmly holds that the parties' obligation to provide full and frank disclosure should not be fettered by the fear of confidential information making its way into the public domain.

In complete contrast, visiting lawyers from beyond California linger outside courts in session in trepidation unaware that the majority of cases in California proceed in public. The divorce cases – including all documents filed in connection with those cases – are public, while non-marital cases involving children (called parentage actions) are private.

It is important to note that, although many of the legal concepts between California and England are broadly similar, the process and approach adopted by each jurisdiction can be extremely different and produce significantly different outcomes.

If you are conducting life between the two jurisdictions or have connections to both areas, it is sensible to gain advice immediately upon issues arising, or in advance, to help understand how the law may affect the outcome of your case.

Ellie Hampson-Jones <http://www.penningtons.co.uk/people/f-j/ellie-hampson-jones/>, an associate with the Penningtons Manches LLP's <http://www.penningtons.co.uk/> London family department, wrote this in conjunction with Randi M Akasaki <http://harris-ginsberg.com/attorney-profiles/randi-m-akasaki-associate/>, an associate with Harris Ginsberg LLP <http://harris-ginsberg.com/>, Los Angeles, following an exchange programme between the two firms.

Both Harris Ginsberg LLP and Penningtons Manches LLP are well known for their expertise in international family law and have authored the chapters on their respective jurisdictions in the recently published Family Law: A Global Guide <http://uk.practicallaw.com/resources/global-guides/family-guide> (Third Edition 2015), published by Thomson Reuters.