



Who gets the pet in a divorce

Who Gets Luna in a Divorce?

For many, pets are much more than property – they are family. So, when a relationship ends, deciding who keeps the beloved dog, cat, or even horse can be a highly emotional issue. Yet, under English law, pets are treated as chattels (personal property), just like furniture or a car. This can feel at odds with the deep emotional connection people have with their animals, but understanding the legal position and available options can help you navigate this difficult situation.

How Do the Courts Decide Pet Ownership?

In England and Wales, there is no specific law governing pet custody in divorce or separation.

In a divorce, civil partnership dissolution or judicial separation, a judge would have discretion as to who should own the pet, and the animal could be the subject of a property adjustment order.

With cohabiting couples, the ownership of the pet will be a matter of construing who owns it.

The courts typically focus on ownership rather than the pet's welfare. Key factors include:

- **Who purchased the pet?** The person who can prove they paid for the pet is almost always considered the legal owner
- **Who is registered on the microchip or kennel club?** While this may indicate ownership, it is not legally definitive
- **Who pays for food, vet bills, and insurance? Who has committed the most time in looking after the pet?** This can help demonstrate ongoing care and responsibility



- **Was the pet gifted?** If one partner can show clear evidence that the pet was a gift, ownership may transfer

The Family Court has the power to transfer ownership of a pet in financial proceedings, but judges are often reluctant to get involved in pet disputes unless absolutely necessary. Proportionality of the costs of litigating such issues and the court's obligation to allot to a case an appropriate share of its resources will be at the fore. For example, in *IX v IY (Financial Remedies: Unmatched Contributions)* [2018] EWHC 3053 in a case with total assets in the region of £38m where the wife sought custody of the family dogs, the judge concluded on this part of the dispute that *'If the parties wish to argue over their access to the other dog I would suggest that they place the dispute before a mediator or arbitrator; perhaps one with experience of dogs.'*

Settling Pet Disputes Without Court

Options for resolving pet disputes amicably include:

● Mediation

Mediation is a cost-effective way to negotiate an agreement outside of court. A neutral mediator can help you discuss ownership, visitation, and expenses. Some separating couples agree to shared care arrangements, similar to child arrangements, alternating weeks or splitting time based on work schedules.

● Solicitor Negotiation

If direct negotiation proves difficult, solicitors can help communicate on your behalf. This can lead to a fair agreement without the need for court intervention.

● Pet-Nups (Pet-Nuptial Agreements)

To prevent future disputes, couples should enter into a *'pet-nup'*, an agreement drawn up during the relationship, setting out who owns the pet, who will be responsible for vet bills, its day-to-day care, and what will happen in the event of the couple's separation. While not legally binding, courts



are likely to take such a contract into account if a dispute arises.

The matter can also be covered as part of a cohabitation agreement or pre-, or post-nuptial agreement. However, caution must be exercised as one consequence of reviewing such an agreement solely for the purpose of adding pet arrangement provisions may be to inadvertently reaffirm the terms of all the other clauses of the original agreement. It may therefore be worth seizing the opportunity to review the entire agreement.

Parties would be well advised to seek legal assistance in preparing any contracts to avoid unforeseen issues down the line.

Taking Legal Action

If no agreement can be reached, as mentioned above, divorcing couples can address pet ownership within financial proceedings. Cohabiting couples, however, may need to bring a claim in the County Court via N1 Claim Form.

In cases where a pet has been wrongfully taken or retained, courts can also order the return of the pet and even award damages.

International Considerations

For international couples, pet disputes can be even more complex. Laws vary widely between countries and the factors that foreign courts take into account; e.g., Spain has recently passed a law that recognises pets as legal family members meaning that the courts would be under a duty to consider the pet's welfare in deciding which of the parties should keep it.

If one partner moves abroad and takes the pet, reclaiming ownership can be extremely difficult. International laws and jurisdictional issues may limit your legal options and it essential that you seek specialist legal advice from within the country in question.

It is also important to remember that an English '*pre-nup*' will not be automatically enforceable in another European country. Any agreements about pet ownership included in such as document which may have to be enforced abroad will therefore need to be given additional consideration.



Key Takeaways

While the legal framework may seem impersonal, the best outcomes often come from cooperation and compromise. If you're facing a pet custody dispute, seeking legal advice early on can help you understand your rights and find the best solution for you—and your furry friend.

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