

# Divorce, Custody & Access

Family Court, Custody, Care & Control, Maintenance & Legal Aid

**Hugill & Ip**

The Ability Bridges Seminar

30 May 2026 | Café 8, Central Pier 8, Hong Kong

**Know Your Rights. Protect Your Family.**



**HUGILL & IP**  
SOLICITORS

**THE ABILITY BRIDGES SEMINAR**

Know Your Rights. Protect Your Family.

**Saturday, 30 May 2026** 10:00 am – 12:00 noon Café 8, Central Pier 8, HK  
Free Event · Presented in support of Love21 Foundation, The Nesbitt Centre and Sensational Foundation

**SEMINAR PROGRAMME**

- 10:00 am** Welcome & Introduction
- 10:10 am** Legal Rights & Protections — Disability Discrimination Ordinance, EOC remedies & employment rights
- 11:00 am** Divorce, Custody & Access — Family court, custody, care & control, visitation, maintenance & legal aid
- 11:20 am** Real Estate & Housing — Special Needs Trusts, property planning & housing access
- 11:40 am** Open Q&A with our panel of lawyers
- 12:00 noon** Close

**TOPICS AT A GLANCE**

Legal Rights & Remedies	Divorce, Custody & Access	Real Estate & Housing
<ul style="list-style-type: none"><li>Disability Discrimination Ordinance (Cap. 487)</li><li>Rights in employment, education &amp; services</li><li>EOC complaints &amp; court remedies</li></ul>	<ul style="list-style-type: none"><li>Best interests of the child — special needs focus</li><li>Custody, care &amp; control, and visitation rights</li><li>Maintenance beyond 18 &amp; Legal Aid eligibility</li></ul>	<ul style="list-style-type: none"><li>Wills, EPAs &amp; private trust structures</li><li>Government SNT — eligibility &amp; asset limits</li><li>Public housing priority &amp; adaptation works</li></ul>

**RSVP**  
Reserve your on-site or virtual attendance — spaces are limited  
[campaigns@hugillandip.com](mailto:campaigns@hugillandip.com)

Access to justice and legal knowledge is a fundamental right, not a privilege.  
The Ability Bridges — a landmark 6-month pro bono campaign empowering individuals with disabilities and their families.

# A Brief Introduction on Family Law re Children

---

**01**

## Jurisdiction of the Court

When can the Hong Kong court deal with your divorce?

**02**

## Children of the Family

Who falls under this legal definition?

**03**

## Care Arrangement Orders

Understanding Custody, Care & Control, and Access.

**04**

## The Guiding Principle

The best interest of the child is paramount.

**05**

## Maintenance for Children

Assessment based on reasonable needs and ability to pay.

**06**

## Legal Aid

Navigating the merits and means tests for assistance.

# Three Gateways to Divorce Jurisdiction

---

The Hong Kong court has jurisdiction to deal with a divorce if **any one** of three conditions is satisfied **at the date the petition (or application) is presented**:

## Domicile

Either party is domiciled in Hong Kong.

## Habitual Residence

Either party has been habitually resident in Hong Kong for at least 3 years immediately before the petition.

## Substantial Connection

Either party has a substantial connection with Hong Kong.

*Note: Where the parties got married is irrelevant*

# Domicile and Habitual Residence Are Distinct Legal Concepts

---

## Domicile

Refers to the jurisdiction a person regards as their permanent legal home. It is not simply where you live — it reflects your intention to remain indefinitely.

## Habitual Residence

A factual concept based on where a person has their settled, regular centre of life. A continuous period of **3 years** immediately before the petition is required.

## Substantial Connection

The broadest gateway. It may be established through factors such as long-term residence, business ties, family connections, or property ownership in Hong Kong — even if the period is less than 3 years.

*These three gateways ensure that parties with genuine links to Hong Kong can access the family court, regardless of nationality or passport.*

# "Children of the Family" Extends Beyond Biological Children

---

The definition under Hong Kong law is deliberately broad to protect all children in a family unit:

- A **child born to both parties** of the marriage
- **Any other child who has been treated by both parties as a child of their family** — regardless of biological parentage

## **This includes:**

- Stepchildren
- Adopted children
- **Surrogated children** — a child born through surrogacy who has been treated by both parties as their child is included within this definition

*The law looks at the **reality of the family relationship**, not merely the birth certificate.*

# Three Types of Care Arrangement Orders

---

When parents separate, the court may make one or more of the following orders:

## Custody

Overarching parental rights and responsibilities — who has legal decision-making authority over the child's upbringing, education, religion, and major life decisions.

## Care and Control

Day-to-day physical care — which parent the child lives with and who manages daily routines.

## Access

The right of the child to spend time with the non-resident parent (and other family members).

**Important:** The Court's jurisdiction (in divorce context) ceases when the child turns **18 years old**.

They can be varied at any time if circumstances change and there is good reason to do so.

# Every Decision Starts and Ends with the Child's Best Interest

---

The **best interest of the child** is the paramount and overriding principle in all care arrangement decisions. The court may refer to the non-exhaustive “welfare checklist” in making the decision. A few points to note :

## Social Investigation Report

An independent social worker acts as the eyes of the Court, to assess the child's living and care arrangement and reports to the court with recommendations.

## Access is a Right of the Child

Access is not a privilege granted to a parent; it belongs to the **child**, who has a right to maintain a relationship with both parents.

## Sibling Unity

The court generally prefers **not to split siblings** between households; maintaining sibling bonds is generally considered as the children's best interest.

## Stability

The court prioritises continuity of care, schooling, and environment to minimise disruption to the child's life.

*Key : The child's welfare — not parental preference — drive every order the court makes.*

# Child Maintenance Is Based on Need and Ability to Pay

---

## The Two-Part Test

### 1. Reasonable Needs of the Child

The court considers the child's reasonable living expenses, education costs, medical needs, and any special requirements — including needs arising from disability.

### 2. Ability to Pay

The financial resources and **earning capacity** of both parents are assessed. Maintenance is not punitive — it is calibrated to what is fair and sustainable.

## Duration & Variation

### Duration of Maintenance

- Until the child turns **18 years old**, OR
- Until the child **completes full-time education**

*\* Whichever is **later**. This means maintenance can extend well beyond age 18 if the child is still in university.*

### Variation of Orders

Like care arrangement orders, maintenance orders can be **varied at any time** if there is good reason — for example, a change in the paying parent's income or the child's needs.

# Legal Aid Is Available for Matrimonial Cases

---

## Merits Test

You must demonstrate that you have **reasonable grounds** for taking or defending the proceedings. A case with no realistic prospect of success will not qualify.

## Means Test

Your financial resources must not exceed the **financial eligibility limit**. For matrimonial cases, the current limit is:

**HK\$452,320**

---

**Key : Legal aid IS NOT FREE.**

## Protecting Your Family — What You Need to Remember

---

### **Jurisdiction**

One of three gateways (domicile, habitual residence, substantial connection) is sufficient.

### **Children of the Family**

Includes any child treated by both parties as their own — including surrogated children.

### **Care Orders**

Custody, Care & Control, and Access — all end at 18 and can be varied.

### **Best Interest**

The child's welfare is paramount — stability, sibling unity, and access rights matter.

### **Maintenance**

Based on need and ability to pay; continues until 18 or end of full-time education.

### **Legal Aid**

Available if you pass the merits and means tests; waiver possible in rights-based cases.

---

*"Access to justice is a fundamental right, not a privilege."*