

Is a Nest Best?

What is “nesting” after relationship breakdown and is it right for your family?

Words | Rose Colley, Partner in Viberts Family Law team



Many of us will have watched ‘The Split’ on TV recently. This is the tale of high-end divorce lawyers and where 2 of the central characters, Hannah and Nathan, come to an arrangement for their three children known as “nesting” or sometimes “revolving door” arrangements. The drama series

has brought the concept of ‘nesting’ after separation or divorce, firmly into the public eye.

What is ‘nesting’?

This is a transitional or temporary arrangement after the parents have separated or divorced where the children stay in the family home while the parents rotate on and off duty by agreement. There will also need to be an agreement in relation to the nesting plan about care of the house, finances, communication about the children and parenting generally.

What are the advantages of “nesting”?

- During the period of separation or divorce the nesting arrangement can stabilise the family during what is certainly a really difficult period in their lives.
- Parents will hopefully also learn how to co-parent and see how important this can be for the children.
- Nesting may also give parents the space and time to ensure that their relationship is finally over before taking steps to sell the family home.

Are there any disadvantages?

- Parents need to be very careful that the nesting arrangement does not give the children a false sense of security that they are able in the longer term to remain in the home if this is not a real possibility.
- It does need to be financially viable to maintain the arrangement and this may not be possible even in the short term.
- Nesting does not alleviate the need to find the financial means to provide a second property for the parents when they are not living in the family home.

•There can be issues if either parent is in a new relationship and the new partner also needs to be part of the nesting arrangement.

Other Considerations?

For such an arrangement to work, the parents need to be in complete agreement that nesting is a solution and for how long it should be in place for. Communication between the parents does need to be good and effective and a way found of dealing with any disagreements between them so these do not impact on the children in a negative way. The arrangement should not be entered into if either parent feels that they have been subjected to any domestic abuse or coercive control during the relationship.

Has “nesting” been considered by the Family Courts?

There is not any caselaw that has considered nesting in Jersey but the Court of Appeal in England recently considered the concept of nesting in the case of A, B and C (Children Nesting Arrangement) [2022] EWCA Civ 68.

This case involved an interim “nesting” arrangement and the court indicated when the judiciary are likely to consider it an appropriate arrangement. One of the factors in the case was the high level of parental conflict and the fact that the independent social worker felt that the coercive and controlling behaviour of the father was a reason as to why the arrangement was not the best one for the children in this family.

The court concluded that whilst nesting allows the children to remain settled in familiar surroundings, providing them with valuable stability and consistency, the parents must fully consider the practical and financial implications. The case indicates that there is a view in the family courts that nesting arrangements are only likely to serve the children’s best interests in the short term.

Will “nesting” become more common in Jersey?

Given the price of housing in Jersey in many cases, nesting may be a suitable short-term solution for many families whilst they are resolving what to do in the longer term. However, it is important to remember that nesting is not a one-size-fits all solution for all the reasons discussed above. Some parents will lack the financial resources or support networks to find alternative accommodation during the ‘off-duty time’ or there is too much conflict or too many disagreements between the parents to make the arrangement work. The supporters of nesting (which is very commonplace in countries such as Sweden), feel that nesting can be a really positive alternative for parents and their children. Most will agree, however, that at some point, the family does

need to be properly separate and find other solutions in the longer term and move to a scenario where hopefully the children can enjoy time with both of their parents in their own homes.

Finally, it is essential to see nesting as one of the possible ways for divorcing or separating families to move forward even if this is only a short-term solution. It remains essential that whatever agreement parents come to in the short or indeed the longer term that this is worked out as collaboratively as possible after taking advice from a specialist family team such as Viberts.

Viberts Family Law team are recognised as one of the leading teams on the island. We asked some of the members of the team ‘Why did you choose a career in family law?’



Jamie Orchard, Partner

I initially started my career, as most young lawyers do, trying out a variety of different areas of law. However, I found that I always gravitated towards family law cases. The work was always diverse and interesting but I found the people and the raw human elements made it even more so. Family law creates some of the most emotive subjects that people can litigate and requires proportionate, pragmatic and often sensitive problem solving. I feel that I am very lucky to be able to help navigate people through such difficult times and that makes it hugely rewarding.



Emma Hollywood, Senior Associate / Advocate

I have only ever wanted to work in an area of law which helps people and has direct involvement with the clients. As a family lawyer I am constantly in Court which is the best part of my job, trying to convince the Court of different legal arguments and ensuring that someone stands up for the rights of the client whoever that may be whilst helping create good law and guiding clients through sometimes emotional and complex court proceedings.



April Hargreaves, Legal Assistant

I was recently seconded to the Family Law team at Viberts, not knowing what to expect. Having now been in the team for around four months, I can honestly say I love my job. I enjoy working with the clients, who are from all walks of life, helping them on their journeys to resolve their family issues. It is humbling to know that the support and effort given to the clients and their cases can be so positively impacting on their lives. I look forward to the years ahead with such a fantastic team.



Alexandra Cohen, Associate / English Solicitor

When I first started to think about what area of law to work in I really wanted to work on children cases but I soon realised that my real skills lie in dealing with finances on divorce and separation as I love numbers. Every family law case is different and I won’t now be tempted by any other area of law.



Jonathan Bernardino, Legal Assistant

I always wanted to work in an area of law where I could help people. I enjoy seeing the changes in many of our client’s lives from when they first come and see me for their initial meeting, to the end.



Family Law

At Viberts we have a dedicated team of family lawyers who are available to assist you in a way that is not only discreet but will allow us to give you answers to many of your questions.

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