Who keeps the family pet upon divorce or separation?

For many families the family dog is far more than just a pet, it is a cherished companion and true member of the family.

For those going through the difficult process of a separation, there will be concerns about what will happen to the family dog: Who will the dog live with? Will there be shared care? How do the courts decide?

To help answer these questions, the case of *FI v DO last year helps* show how the courts are now approaching divorce and pets.

The legal status of pets

Under English and Welsh law, it is perhaps surprising to learn that a dog is typically treated as chattel – in other words, personal property. What this means is that ownership disputes are treated in the same way as disagreements over other belongings, such as a piece of furniture or a car. The court would consider factors such as who paid for dog initially, whose name is on the registration and who has been covering ongoing costs such as insurance or vet bills.

The reality is, of course, that the family dog is not the same as a piece of furniture or a car. FI v DO ultimately challenges this long-standing way of thinking, marking a significant moment in pet custody cases.

The background of the case

The case involved a 12-year marriage with two children who lived with the wife. Although financial proceedings addressed standard matters, an important point of contention took centre stage: who should keep the golden retriever puppy?

The husband sought sole ownership of the family dog and a shared care arrangement. He claimed that he had paid for the dog, trained her and registered her as a support animal for his anxiety. He also argued that the wife neglected the dog post separation. The wife however, said that the dog was bought jointly using money from her and their daughter, and that she registered the dog, managed her insurance and paid for veterinary care.

The wife disputed shared care due to a particular incident that occurred in 2022 when it was claimed that the husband forcibly removed the dog from the wife's mother during a walk. This incident led to police involvement and a report to the RSPCA. The husband claimed that he was simply retrieving the dog who had run off. He later accepted that the dog had returned to the family home, and he had followed her.

The outcome for the dog

Ultimately, the court ruled that the dog should remain with the wife, giving the following reasons:-

1. The court found that the registration of the dog as a support animal occurred after the couple had separated. It appeared the registration was intended more to bolster the husband's claim of ownership rather than to reflect genuine need.

2. The debate as to ownership was not about who paid for the dog, but rather who the dog viewed as her carer. The key issue was not past involvement, but who was currently meeting the dog's day-to-day needs.

   Whilst the Judge accepted that the dog had been jointly purchased, this was ultimately irrelevant. Since the couple separated 18 months ago, it was the wife who had been solely responsible for the dog's care.

3. The dog's best interests - The dog had shown a clear preference for the wife notedly running back to the family home during the 2022 incident. This was taken as a clear sign that the dog saw that home as a safe and familiar environment, somewhere where she belonged.

The wife understood the dog's needs, acted with compassion and would always prioritise the dog's wellbeing.

The District Judge concluded:

"The dog's home is with the wife, and she should stay there. It would be upsetting for both the dog, and the children were those arrangements to alter."

What does this mean for couples who are separating?

The judgment in FI v DO marks a shift in how the law approaches pets in divorce. Decisions are now more likely to consider the practical realities of care, wellbeing, and attachment – reflecting a move away from rigid notions of possession and ownership documentation.

It also opens the door to broader conversations about the role of pets when children are involved. Pets often serve as emotional anchors during periods of upheaval, providing comfort and a sense of continuity. In this case, the familiar presence of the family's golden retriever offered the children a source of emotional stability.

Ultimately, whilst pets may still be legally classified as chattels, it is clear that courts are beginning to grapple with the interplay between law and emotion.

For advice about Family Law matters, please contact Heather Weavill at Alison Fielden & Co on 01285 653261.