

Divorce & Family

Key issues



 resolution
first for family law

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What you need to know

There are many things to think about when going through a divorce. It is likely to mean changes to where and how you live, as well as changes to your finances. This can be further complicated where children are involved.

It is a huge change in your life and can be a very difficult and emotional time.

The first consideration for anyone thinking about divorce is to get advice from a Specialist Family Lawyer at an early stage. Here at KWW Solicitors, David Anstee is an accredited expert with Resolution (formerly the Solicitors Family Law Association).

Members of Resolution are required to conduct matters in a constructive and non-confrontational way. We will advise you on the options open to you so that you can decide the best solution for you and your family.

As well as discussing the Court procedure with you we will advise you on the alternatives available to you when resolving any issues that there may be in relation to finances or children, so that Court proceedings are always a last resort.

One of the options available is negotiations through solicitors. This involves you and your solicitor discussing the options best for you and negotiating with your spouse and their legal representatives to try to reach an agreement. This can be done through correspondence or at a round table meeting.

Another possibility is mediation. This involves you and your spouse seeing a specially trained mediator to help you resolve the issues surrounding your separation. This can only work if both of you are fully committed to the process and are open and honest about your circumstances. If all else fails, only then will the Court become involved.



There are ways of reducing conflict to ensure your divorce or separation is dealt with quickly, cost-effectively and with the least amount of disruption and anxiety for all family members.



Children

One of the more difficult aspects of separation are the arrangements to be made about any children and how they will be affected by their parents' separation.

The Court's main or primary concern when faced with any dispute over the care of the children will be the welfare of those children. While it is understood that emotions and feelings can be running high, far and away the best thing to do is reach an agreement with your spouse about childcare arrangements. This has long been proven to have the least unsettling impact on the children.

If you can do this there will be no need for the Court to make an order and no need for the Court to become involved in the process. This will dramatically reduce your legal fees and distress to all, in particular, your children.

If it is not possible for you to reach an agreement between yourselves directly or through solicitors then the next best thing to do is to engage in mediation if appropriate. Whenever there are any disputes between yourself and your spouse it is always best to try to reach an agreement and use the Court as a last resort.

You and your ex-partner's attitude toward your ongoing relationship with the children is crucial. It is important to avoid using children as a weapon within the divorce and to keep to any agreement that is reached. For example, the changing of contact arrangements at the last minute or being unreliable with timing will only further damage your relationship with your ex-partner and will have a detrimental effect on the children and their relationship with both of you.

Further, it is recognised by the Court and professionals who work in family law that any issues involving money and children should always be kept separate. For example, the contact between the children and the ex-partner should never be withheld if child maintenance has not been paid.

Money

It is often assumed that a spouse's conduct during the course of a marriage or their behaviour leading to the separation will have an effect on family finances. This is not the case.

It is unusual that where one spouse has had an affair this will be taken into account when deciding how the family's financial resources are to be split. It is only in very rare cases that a party's conduct will be taken into account.

When considering who should have what assets out of a marriage there is a duty on both spouses to give full details of their financial situation. If either party is dishonest or tries to hide assets then the Court has powers to address this and can make orders for costs against the party trying to hide their assets.

One of the frequent difficulties in resolving financial matters is agreeing the value of the family's assets. Normally this relates to the value of the family home, pensions and business interests.

One way of speeding up the process up and therefore minimising costs is for both parties to be prepared to agree a schedule setting out the values of their assets whether they be held jointly or individually which can then be given to your solicitors. Where parties are married it usually makes no difference whether assets are owned in joint or sole names.

If you have an accountant or independent financial adviser who has helped you in the past they may be well placed to assist you with the value of assets owned by you and your spouse including business interests or pensions.

You could also instruct estate agents to provide you with informal market appraisals of your house which are free of charge and these can give a reasonable idea of the value of your home. This could save time in arranging for expensive and time-consuming valuations.

While trying to finalise financial matters it is best to minimise the changes to the ongoing financial arrangements between you and your spouse without notice and before taking advice. For example, emptying a bank account without notice or stopping standing orders can lead to acrimony and upset. This can make it more difficult to reach an agreement in relation to financial matters and is likely to lead to additional costs being incurred through having to use the court process.

We at KWW understand how the legal process can have the effect of increasing tension between you and your partner and we do all that we can to minimise this.

