Divorce – A dozen do's & don'ts

Overview

Divorce or Legal Separation is without doubt a hugely stressful time and people often make costly financial mistakes. We have identified some of the key areas that crop up time after time. Whilst not exhaustive, it does show that there are many pitfalls which can be avoided by taking the time to engage with the right lawyer and independent financial adviser and other expert resources.

- ***Don't*** **assume that the most expensive solicitor is the best solicitor.**

Look for someone who has the right level of matrimonial experience and always remember that you are the client. Your lawyer needs to be someone with the force and determination needed if the negotiations become entrenched, but yet having the diplomatic skills to engineer a palatable settlement - and experience shows that the start of proceedings often represents the best opportunity to settle. You will be having regular contact with your lawyer so it needs to be someone that you feel comfortable talking to as well as being confident in their ability. Personal recommendation is a good place to start and we will be happy to introduce you to someone appropriate.

- ***Don't*** **think that an acrimonious legal process which ends up in court, is the only option.**

Differences can be settled and options such as Collaboration, Mediation or Arbitration can prove to be more appropriate and often less expensive. I know it's hard to be amicable in an emotionally charged split in a relationship, but remember, the more money you spend funding a battle-royal, the less there will be for both parties at the time of settlement.

- ***Do*** **understand who does what.**

Your lawyer will deal with the legal aspects of your separation/divorce and strive to achieve the best settlement, But your lawyer is not a qualified, independent financial adviser, and asking them to help with planning your financial future is like asking an electrician to fix your plumbing! Make sure that the right professional is dealing with his or her specific aspect of your situation.

- ***Don't*** **make emotional decisions about the matrimonial home and other assets.**

One of our hardest jobs is to try to get clients to take a step back and help them to make rational decisions. It's difficult, but making the wrong decision at this stage can have a huge impact on your future financial security. It's will be hard adjusting to a new lifestyle post-divorce and splashing out on treats and life's little pleasures may have to be curtailed. We will not pull any punches - your future financial security is our primary concern.

- ***Don't* underestimate the power of a pension.**

This is one area of financial planning where specialist independent advice is vital as it will hugely affect your future financial security. Accepting say, the house, instead of a pension share can sometimes be a mistake but we will guide you on the right strategy. Your partner may have a "final salary" pension scheme and one of the biggest challenges is to calculate a true value of the benefits – something that often requires the input of a specialist pension actuary. There is much "smoke & mirrors" associated with pensions – is the transfer value on the Form E accurate? How secure is the final salary scheme? Very rarely is a 50/50 split of a pension the only route to follow.
The new regime of Pensions Freedom that was introduced in 2015 has further increased the flexibility of pensions, but more options mean more complexity and an increased need for qualified independent advice

- ***Do* get a clear understanding of the true value of all assets.**

As both parties are unlikely to have equal earning power in the future, where is the sense in simply splitting everything down the middle? No two assets have the same value and yet we still see people accept the family car worth, say,£10,000 today in lieu of a financial asset such as an ISA also with a value of £10,000 today - which do you think will be worth most in 5 years' time?

Different assets have different qualities such as accessibility, volatility and risk, and this is why we recommend that you engage the services of a good independent financial adviser such to guide you through this potential minefield. It's no good just looking at the value of something today, the asset needs to work hard to help take care of the long term outgoings and inflation. We regularly work with our client's solicitor to provide a forensic analysis of all financial assets in order to ascertain their true value both in the long and short term - something we call "settlement engineering".

- ***Don't* ignore tax and inflation**.

Yes, I know this is starting to sound a bit boring, but taxation can have a major effect on the value of the assets that are to be divided. And as for inflation, not taking it into account, combined with unrealistic returns over the long term, can be a recipe for financial disaster – unless you are being guided by a good financial adviser.

- ***Do* be aware of your joint credit & debt situation & responsibilities**

Get a credit rating search organised at once – a missed payment by your ex, or soon to be ex-partner, can result in you not being to obtain credit or a mortgage in the future. Remember, if you have a joint debt, it does not matter who spent the money, you are both responsible for the whole debt. You have, or are about to get divorced so deal with any joint loans and credit cards as soon as possible – likewise, joint savings accounts should be closed and the assets split.

- ***Don't* forget to protect any maintenance payments and amend any joint policies.**

If the person paying maintenance dies or falls ill, where is the money going to come from? An appropriate protection policy has to be implemented to protect the payments – and we will ensure that it has been set up in a way that keeps you informed of any premium defaults. If you have a joint policy and die before you decide to change it, any proceeds will be paid to your ex partner - will that be what you want?

- ***Do* address the implications of your existing Will or trusts.**

Change your will as soon as you split up – You need to get your solicitor to draft a new will to ensure that your assets on death pass to your chosen beneficiaries not to your ex-partner. It is also likely that if you have previously created a Trust, your ex-partner may well have been a potential beneficiary. Once again you need to take legal advice.

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- ***Do*** **make it a priority to establish a budget.**

A lot of the work will have been done on completion of your Form E with the solicitor and will give clarity in establishing if the proposed settlement will satisfy your needs. But it has to be realistic and sacrifices may have to be made on either side. We have a wealth of experience in those frank and honest discussions that have to take place in order to assess the viability of the forecasted income and capital requirements.

- ***Do*** **look at this time as an opportunity to plan properly for the future**

The decks have been cleared and you need to take full control of your finances. You will not have to do it alone, and AV Trinity will be able to guide you along the way. Divorce is a stressful and emotionally charged time and this can lead to mistakes and bad decisions being made on the financial side. We hope that these "do's and don'ts" help you identify the areas that need to be addressed, and who can help you address them.

In conclusion

If you have any queries whatsoever regarding your financial position pre or post-divorce, please contact us and call in for a confidential chat over a cup of coffee.

Remember there is no charge for an initial meeting with one of our male or female advisers who are experienced in dealing with the financial impacts of divorce with clarity, sensitivity and discretion

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