



Pitfalls to avoid in a divorce

A divorce deals with the dissolution of a marriage, but not anything which is associated with it such as arrangements for children or financial matters. For those that are divorcing or even those that are already divorced, it is important that a court order is obtained setting out any financial settlement, making it legally binding and to prevent financial claims being brought in future.

Even if you think financial matters have been resolved and you do not intend to make any financial claims it is essential, even if you are already divorced, that a financial order is made which dismisses future financial claims. If not, there is a potential that financial claims can be brought when the financial landscape may have changed significantly and assets accrued, long after a divorce is finalised.

For those that may have agreed a financial settlement in principle, based on a certain split of assets, assistance will be needed to quantify the value of any split to ensure that it reflects what has been agreed and formalised properly so there is no unexpected come back in future.

Arrangements for children can always be altered and it is important to review any agreement as children get older.

Warnings

- In international cases, at the outset of any divorce, consideration needs to be given to jurisdictional issues and where any divorce should proceed. Such a choice could have a significant impact on any financial claims.
- In the divorce process it is important that the paperwork is completed correctly so as not to have an adverse impact on financial claims.
- It is important that the court makes a financial order dealing with all financial claims.
- It is important that there is an exchange of financial disclosure to ensure that all assets are considered, and none are hidden.
- It is important that any assets are valued correctly. Input from other experts may be needed to ensure that a correct value is placed on assets such as businesses, pensions or property. Working on purely cash values of pension can be very dangerous and deceptive.
- Tax consequences must be considered and any tax arising from settlement needs to be fully considered.
- Financial settlement should address capital entitlement as well as issues concerning maintenance, whether this be spousal and/or child maintenance.
- Any settlement needs to be fair and appropriate, to avoid the financially stronger party giving away too much, or the financially weaker party settling for too little.
- Interim/holding measures may be needed to cover issues such as interim maintenance and legal costs

A specialist will be able to help you navigate the pitfalls of any divorce.

Even if you have agreed a financial settlement with your spouse, a specialist will be able to advise on the appropriateness of settlement and ensure that any necessary formalities are dealt with so that your financial position is protected.

If advice is needed in reaching a financial settlement, a specialist family lawyer will be able to guide you through the process to ensure that proper interim measures are in place, financial disclosure is obtained, and assets are valued so that any financial settlement is fair.

Our Family Department has the skill and expertise to guide clients through the minefield of divorce. Our solicitors will assess your needs and recommend what is suitable for you. They will explain what is required, provide their input on a financial settlement, and achieve the best possible outcome for you.

If you are contemplating a divorce, do speak to a solicitor in our Family Department on 020 7631 4141 or at family@bishopandsewell.co.uk

Consider

- Engaging a family law specialist as early as possible in the divorce process.
- Getting other professionals such as accountants and financial advisers on board at an early stage.
- Making a will.

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"The service provided was fantastic throughout and I highly recommend Bishop & Sewell to anyone going through the challenging process of a divorce."

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