



Working together
to succeed

Marriage breakdown

There are a number of points that everyone should remember when they are thinking about a potentially permanent separation, or even divorce.

Negotiations

First of all, there is a difference between giving way wholly to your partner's demands and negotiation. It is often cheaper and more pleasant to reach agreement with your partner and to have that agreement embodied into a legally binding form. That does not mean that you necessarily have to agree to your partner's demands or proposals, or they to yours. It is sensible to try and negotiate a fair settlement unless your partner appears wholly unreasonable. Long drawn out negotiations where your partner is unrealistic or slow can increase your expenses, in which case it may well be cheaper, faster and less stressful to issue Court proceedings. Negotiations can still continue and agreement can be reached at any time which would avoid the stress and expense of going through with a final Court hearing.

Financial disclosure

It is important that you have full details from your partner of all their assets before you think about any particular agreement. Until you know how large the 'cake' is, it is not possible to divide it up fairly. If your partner is unhelpful and will not voluntarily and quickly produce all the financial information that is needed, it may be sensible and cheaper to issue proceedings at Court which can compel them to produce that documentation.

Mediation

It is possible to reach agreement with your spouse/partner simply by discussions between the two of you, with whatever advice and assistance you may like from us. As your solicitors, we always try to see whether negotiation is a practicable way forward for you.

There is the alternative of formal mediation. That is, discussions direct with your partner with the help of a mediator. These discussions would be confidential, cannot be held against you later on in Court, and any agreement that you reach need not be binding until you have discussed it further with us.

The Bristol Family Mediation and their offices are very close to ours at 3rd Floor, Alexander House, Telephone Avenue, Bristol. You can contact them direct on Bristol 9292002, but they would normally expect, and prefer, that the referral is made by us.

The future

If you are thinking about a permanent separation, there are some points to consider.

It may well be sensible to make a new Will at this stage unless you are content that your spouse should inherit on your death. It may also be appropriate and necessary to take steps to sever the joint tenancy in your family home, and to ensure that your spouse does not retain the whole of the house in the event of your death.

This is a technical legal point which you will need to speak to us about if it is a concern. Bear in mind that a final divorce decree affects a Will. Any gifts or references in that Will to your spouse would cease to take effect. If and when you come to re-marry, any Will would be completely invalidated by that re-marriage.

Joint debts

You are vulnerable if there are accounts or debts in joint names because any creditor can choose to pursue just one of you for the whole amount of the debt. If there are joint bank or building society accounts, you should consider whether you should contact the bank or the building society to freeze the account and thereby ensure that no further sums can be withdrawn by your spouse without your signature. However, the risk is that you too will be unable to draw on the account without your spouse's signature. It is sensible to discuss this with us. So far as debts are concerned, if they are already in joint names there is no more that you can do, save to monitor whether repayments are being made properly. If you have left the house, it is important to ensure that relevant bodies are notified so that you do not have any continuing liability for council tax, gas, electricity, telephone or any other routine outgoings.

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