



The good divorce guide: 12 questions all women should ask

By *Madeleine Young* of *Hewetts.co.uk* for Reading Chronicle and *SolicitorsinBournemouth.com* for Bournemouth Echo

New Year sees more divorce proceedings take place than at any other time as women decide January and February is the time to make a break.

We asked two senior divorce experts to explain what women need to know, before they start divorce proceedings.

Choosing the right solicitor to deal with your divorce is important – as well as being technically competent, you'll want someone who understands your point of view and can get you the right outcome.

How do I know if I'm choosing the right lawyer?

Madeleine Young – Hewetts Solicitors Reading

Choosing the right divorce solicitor or lawyer can be tricky. If you go online and just search “top divorce solicitor” you might find dozens of firms claiming to be “the best” or “highly-rated”. The main thing to make sure of, is that if you have children under the age of eighteen, then you must choose someone who is a specialist family practitioner.

This is because they will be used to dealing with family access and care issues and will also have experience dealing with the family courts.

If your divorce is likely to include issues about a business or trusts then make sure that your lawyer has experience (or can call on colleagues) of these issues.

If you don't have a lot of money, then avoid senior lawyers who will charge more and go for a younger solicitor, (who will most likely cost less but be supervised by an experienced colleague.)

Because you will be discussing very personal issues, you have to feel comfortable on a personal level. Some women prefer dealing with a female solicitor, who they believe is more understanding of issues.

A family lawyer who works at a firm providing tax, commercial and property expertise can also be of benefit as expertise from these areas can be called upon.

How can I reduce my divorce legal bill?

Madeleine Young – Hewetts Solicitors Reading

Solicitors most usually work on a time basis, charging by the hour. Anything you can do to reduce the amount of work that your lawyer does for you, will help to reduce your bill.

Before you meet your solicitor, it's a good idea to write a summary of your family and financial situation and list any areas you may wish to discuss. You can send this to your solicitor before your first meeting, which is often discounted as an initial consultation.

This will help you help the solicitor focus on the areas you want to discuss and the issues that you want resolved. This is not the meeting to discuss your relationship and have long conversations about who is to blame for the breakdown of the marriage.

It's always a good idea to take notes and if there is a lot that has been discussed then you can ask them to send you a summary of the main points.

(There are ways to finance your legal costs so please ask if you need this help. It can often be paid for once you receive your settlement.)

What are my legal rights?

Madeleine Young – Hewetts Solicitors Reading

When a couple is married or in a civil partnership, the law is designed to protect the financially weaker spouse and the children.

The law tries to make sure that all members of the family have a home and sufficient income to live, which is where spousal maintenance may come in.

With regards to the financial settlement, it is all the assets including income and any other resources such as pensions, that will be taken into account, (and need to be disclosed). This is because the settlement will be based on the principle of equality regarding the couple's interests and children's needs.

The law and unmarried couples is not clear and in any case, there is no such thing as a common law marriage.

Cohabitant's claims relate only to support for the children or if the couple had assets in common, for example if they had both invested in a house purchase.

When the couple have children, child maintenance will usually be paid and, if one parent is wealthy, maintenance may be substantial and cover the mother's or father's own needs.

The parent may also have housing claims on behalf of the children.

It is often the case that women endure bad relationships because they are worried about what might happen financially to them and the children if they divorce. But in England and Wales the courts are very fair to wives and mothers upon relationship breakdown.

How much money will my ex have to pay me?

Madeleine Young – Hewetts Solicitors Reading

There is no answer that can be given to this question because any payment is at the discretion of a judge, and he decides on a case by case basis.

A judge has a very wide remit in terms of the law and he will base his/her decision based on a statute dating back to 1973.

A very basic way of looking at it is to look at what is 'matrimonial' –[accrued through the marriage}. However, this is not fixed and it is complicated, especially where the couple have been together for a long time. (Sometimes a judge may take into account any pre-nuptial agreement in place if there is one).

Matrimonial capital is usually equally divided, with sometimes everything else being kept separate. Then an analysis takes place of what the needs are (housing, income, earning power, what the children need etc.)

When you have the results of these sums you start to compare the sums and get a "sharing claim" versus a "needs claim".

When there is only enough money for one home, then the partner who has the children will often get the majority of the money. If there is one partner who is financially better off, they can often be upset by this. But the law is very strongly in favour of looking after children's interests.

There is usually child maintenance and also spousal maintenance if one person who earns less than the other will suffer hardship.

More frequently now, maintenance is often for a set number of years, for example, until the children leave full-time education. These orders are known as Term orders.

Will my ex have to pay a higher amount if they had an affair?

Madeleine Young – Hewetts Solicitors Reading

Alas, just because your ex had an affair, (committed adultery) doesn't mean they will pay more maintenance. Although, if your ex does move into their new partner's home, this could affect the amount of maintenance you get.

There is no financial penalty with regards to who committed adultery. Although, if there is extreme behaviour, such as spending all the money from a joint account, or trying to hide assets, this may have an impact. The judge could take things like this in to account.

Not disclosing assets is a particular problem and the courts do take this into account so the best policy is definitely honesty.

If you settle out of court, through mediation for example, adultery can affect things because one partner may feel guilty about their conduct. This may enable a solicitor to deliver a favourable outcome for the aggrieved party.

How can I protect my interests prior to a divorce?

Madeleine Young – Hewetts Solicitors Reading

Rule number one – Don't leave the marital home. You are instantly at a disadvantage. And don't go rifling through any private papers that you can get your hands on, because we won't be able to use anything that you got without permission.

Just make sure you know as much as you can about your finances and assets. Gather any shared documentation you may have. Don't worry if you don't know what your ex earns, most people don't!

If you spot a joint-bank account being emptied, let your solicitor know right away. Likewise if any credit cards are blocked.

As mentioned before, if you have a pre-nuptial agreement, make sure you give a copy to your solicitor. They can be used to protect you if you are earning a lot more money than your partner, for example, through the setting up of trusts, which are not always matrimonial assets.

What are the first steps I should take when divorce becomes inevitable?

Divorce Solicitor from SolicitorsinBournemouth.com

I always say to clients, “Is divorce the right thing for you to do at this moment in our life?”

It may seem strange to ask this but counselling or separation may make a difference to how you perceive things. Divorce is a life changing event and you have to be sure. Don't rush into it.

The next thing to do is find your marriage certificate as you need it to start divorce proceedings. If you haven't got it, you can get a copy from the General Register Office.

Secondly, make sure you prioritise your children. You may not get on with your ex, but you are both parents to your children. Often a divorce can be a breakthrough, rather than a break-up, if both parents work to ensure it is as amicable as possible.

Consult a solicitor early on. For example, most solicitors will offer a discounted initial consultation where you can find out where the land lies in short meeting. This is often a good way of finding out which solicitor is a good fit for you and to get your initial plan together.

Keeping a diary of events may help you later on so unless you remember everything when under emotional stress...write things down.

If you haven't already done so, get a list of all the assets you own jointly and anything you know about your partner's assets and income, without breaching any confidentiality.

How can I prioritise my children throughout the divorce process?

SolicitorsinBournemouth.com

Just because you are getting divorced, it doesn't mean that co-parenting should end. Whatever reason for the breakdown of the marriage, children deserve to be given priority. This is an equally stressful and confusing time for them. Looking at things objectively and ensuring the children are not used as bargaining chips will help.

It may be that conflict and court proceedings can be avoided by using mediation and this can help prevent any disputes relating to the children.

Setting boundaries and routines may also help keep things stable as possible for the children. Collaboration is much better and cheaper than conflict.

Should I go to a therapist or divorce consultant alongside my lawyer?

Madeleine Young – Hewetts Solicitors Reading

There is much to be said about getting help to cope with the emotional distress of divorce. Many women will rely on friends and family to guide them and help them through practical and emotional things, whilst the solicitor helps with the legal side. Therapy may help by being a bridge between the two.

Divorce is a process and recovery can be aided by a qualified therapist. If your solicitor cannot point you in the right direction, then your GP should be able to help you.

Divorce consultants are relatively new in terms of their offer. They can help you prepare documents for your solicitor (so that you spend less time and therefore money with them) and can help you find new accommodation, schools etc.

Which recent legal changes should I know about?

Madeleine Young – Hewetts Solicitors Reading

One of the biggest changes is the loss of Legal Aid for divorce proceedings. This means that people are either representing themselves in court, with the consequences they are not getting the best outcome they could.

We also see more forms of alternative dispute resolution and mediation, which can be more collaborative and less costly

What sort of divorce do I need?

Madeleine Young – Hewetts Solicitors Reading

The best type of divorce is one where both parties are happy with the outcome. This can often be achieved through mediation. But there has to be a full disclosure from both parties to make this work. This type of divorce agreement is good for children as it is more collaborative, although it must be remembered that the agreement must be ratified by the court.

Another way to get the divorce you want may be by using arbitration.

You decide that a barrister, solicitor or retired judge can arbitrate on your divorce. This can cost from £6,000 to £25,000 however it can be legally binding and is relatively fast.

Going to court, (taking them to the cleaners!) can be risky.

When you go to court you are going to get a judge tell you what you want to do and it is going to be legally binding. Of course, for some clients, that's what they want, and it just remains to say that keeping the children out of the conflict is a must.

What is the most common mistake made during a divorce?

Madeleine Young – Hewetts Solicitors Reading

Until no fault divorce becomes the norm, it is likely that blaming the other person will take up too much time and energy.

Because you have to be separated for two years for divorce proceedings, unless you demonstrate unreasonable behaviour or adultery, it is often the case that a list of "unreasonable behaviour" will upset the other party and lead to a delay. That's because no-one likes to take the blame for a marriage break-up.

Remember that the financial settlement is unlikely to take the reasons for divorce into account. Fighting over whose fault it is only costs time and money.

Next Steps....If you found this report useful please contact our experts...

To book an hour long consultation to find out more about your unique situation please contact Madeleine Young or SolicitorsinBournemouth.com

They are both experienced Family Solicitors and will help you decide the right approach, what you are entitled to, and most importantly how to handle things so children are protected as much as possible.

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