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Sarah Coles 11.01.2011

Divorce is not only an emotionally painful experience, it can be very expensive too. So how can you best survive the financial fallout?

SOFTEN THE FINANCIAL BLOW OF DIVORCE



The busiest day of the year for divorce lawyers will be 4 January. Perhaps it's the stress and expense of organising Christmas that tears couples apart, or maybe it's the contrast between their miserable festivities and everything they had hoped for when they started out.

Whatever the reason, a survey by insidedivorce.com found that early January is up to 50% busier for divorce lawyers than any other time of year. And while divorce may be the right road for these couples to take, it's likely to be one of the most expensive things they ever do.

According to debt company Payplan, the average cost of divorce has now reached £13,000 - but, as David Allison, chair of family law association Resolution and partner at Family Law in Partnership, says: "In London, if you fight all the way to a final hearing, it can cost you between £70,000 and £100,000, and I worked on a case this year that cost over £400,000."

However, if you have no choice but to get a divorce, how can you get through this process and come out the other side in one piece financially?

The messy split

Charles Doring, a 41-year-old business owner from the South East, divorced in 2005 after 10 years with his wife Fiona. The parting was not mutual.

"When I moved out there was practically a fist fight over every CD I wanted to take with me," he recalls. "So I realised we would have real difficulty agreeing on everything else."

At first, Charles didn't see a solicitor. It was only when his wife started sending solicitors' letters demanding payments that he realised he had made a mistake.

It's vital to take early steps to avoid running into trouble. Suzanne Kingston, head of family practice at Dawsons LLP, says: "Go to a lawyer and have a meeting as soon as possible to talk through the practicalities and choose the best way forward."

At this first meeting, you need to decide your approach.

The cheapest option is to agree between yourselves how assets will be divided. If you can't agree, the next cheapest approach is mediation, where a single mediator (often a lawyer) acts as an independent third party to help you resolve any issues. More expensive is collaborative law, where both parties sit down together with their lawyers in a four-way meeting to thrash things out.

Otherwise, you will need a more traditional approach using solicitors to try and solve things through negotiation, or go through the court process - the most expensive option.

Charles's wife was determined to use solicitors, and kicked off the legal process immediately. There are several stages to this, and couples can settle at any point. In the first, each spouse fills out a form disclosing all their assets; they then exchange forms and try to reach an agreement.

If that fails, they go to a first court appointment, and then if necessary a financial dispute resolution (FDR) hearing before a judge and barristers, who will make a recommendation. Allison says most couples agree at this point.

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Those who still cannot settle go to trial. Even then, it's possible to appeal the decision. At each stage they pay for the time of the professional - every letter, phone call, email, meeting and court appearance. It's easy to see how the costs can mount up.

Charles and Fiona came to an arrangement after the FDR. "She refused to speak to me directly, and was always firing off solicitor's letters, which my solicitor had to answer," Charles says.

"Then there was all the preparation for court and all the time there. In the end, we spent more than £50,000 between us, which was ridiculous, but she was determined to take me to the cleaners."

If you end up taking the court route, there's little you can do to avoid these costs. You may be eligible for legal aid, though the massive cuts recently proposed by the government are likely to hit divorce cases hard.

"You should talk to your spouse as much as you can without involving solicitors," says Kingston. "And consider carefully the best way of contacting the solicitor - if you're continuously emailing or calling them, you'll be charged for that.

"Finally, use the right professional: a lawyer for legal advice and a counsellor for counselling."

The amicable split

Helen Morrison, 36, a museum worker from the Midlands, divorced in 2008, two years after separating from her husband of 10 years. She has two children, aged two and six, and her husband first announced his intention to leave her for another woman when she was pregnant with her second child.

Despite the circumstances surrounding the divorce, she wasn't after her 'pound of flesh'.

"It was important for the sake of the children not to confuse practicalities like access and finances with the raw emotion," she says.

"We deliberately left the divorce until much later, so we could focus on splitting the finances rather than the blame and responsibility. We divorced later on the grounds of two years of separation, so we didn't have to get into the details of who did what to whom."

Helen and her husband Rob visited a mediator to thrash out the financial details. Kingston advises: "Start by looking at the whole asset pot. You might decide later on that you're not interested in having certain things, but it's always worth checking what exists and what you're entitled to before making that decision."

Helen was more concerned about organising access for the children, and again the mediator was able to help. "We've varied the arrangements a bit over time. We changed the access arrangements when my youngest got a bit older, and when Rob was briefly out of work we varied the maintenance," she says.

Maintenance for children is agreed on a case-by-case basis. Mackintosh says: "Most find this the easiest thing to agree, as they both usually want the best for the child. However, if there is disagreement, the Child Support Agency uses a formula of 15% of net annual income for one child, 20% for two and 25% for three and more."

However, even where the divorce is as pain-free as possible financially, the repercussions can rumble on. "I had no idea how much of a financial difference it would make to be on my own," says Helen.

"It's hard, but I'm glad that we didn't make things so much worse by fighting about the money during the process."

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