

Our

# 10 Top Tips for Finances

following

# Divorce & Separation

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You gave clarity to what was at times a confusing process and your professional expertise made me feel completely at ease and confident.



Excellent service, thank you.



Thank you for all your help and patience, you've been really good with me.



# Finance in Divorce

The chances are that you didn't marry with the intention of divorcing. So the prospect of having to untangle the various contributions you each made to your marriage will be daunting, confusing and potentially contentious.

Here are our top tips for going about it in the best way.



01



## When is the best time to deal with the issue of finances?

During the divorce negotiations, you and your partner will find that there are some things you agree on and others you don't. Mediation can be a useful way of helping you make the best decisions.

Once you have got to the end of the road with those discussions (either with a set of terms for the court to approve, or with the realisation that you need a judge to step in and make financial decisions for you), it is best to apply to the court straight away. There is no deadline for making a financial application, but delay could affect the amount awarded.

**“Every divorce case is assessed differently.”**



02

## Is every financial arrangement different?

Friends and family are quick to rally round during a divorce and they will probably give you well-meaning advice based on their own experiences. What happened to them won't necessarily happen to you – in fact, it is very unlikely that your circumstances will be identical.

Every divorce case is assessed differently by the court. Judges have complete discretion as to how to divide financial assets, and there is also no standard formula to apply. If you and your partner relinquish control of the decisions, bear in mind that it can be very difficult to predict how a court will deal with your assets.

03

## Will the court consider the financial needs of children?

The court must consider all of your circumstances, beginning with the welfare of your children, including stepchildren who are under the age of 18.

However, just because the children's needs are considered first, it doesn't mean they will be the most important factor; there will be a whole range of issues to be sorted out one-by-one.

04

## Will there be an equal split of finances?

It is rare for the financial aspects of any marriage to be entirely equal, and this is taken into account when it comes to formalising the divorce. The court will be keen to make sure that the outcome is fair. It does this by considering the needs of each party, the compensation to which they may be entitled, and their duty to share.

05



## Is the breadwinner more important than the homemaker?

In marriages, one partner often earns more than the other. But this is tempered by non-financial contributions the other makes – raising children and taking care of the home, for example. The breadwinner and the homemaker are seen as having an equal role in the marriage, and this will be reflected in the financial settlement the court puts in place.

**“The breadwinner and the homemaker are seen as having an equal role.”**

06

## Will the financial settlement penalise the spouse or partner at fault?

Courts are very reluctant to factor into their decision-making the reasons for the marriage breakdown. Only in exceptional cases will they take into account “bad behaviour” during the marriage; generally, where it would be impossible to ignore. One example is where a husband who had attempted to murder the wife was left with only a small percentage of the assets. Excessive gambling by one party may also be taken into account, but you shouldn't count on a husband or wife who has cheated, for instance, having less out of the financial settlement because of that.



07

## What happens to pensions?

Pensions were often overlooked in dividing financial assets. However this is not the case nowadays and they are often the most significant asset to be considered. Normally pensions are divided between the parties to the marriage but some – the basic state pension, for example – may not be shared.

Spouses who have divorced and remarried one another (it does happen!) may not have a second pension share against the same scheme if they divorce for a second time. However, where a pension has already been shared in a previous marriage, there is nothing to prevent it being shared after a second divorce.



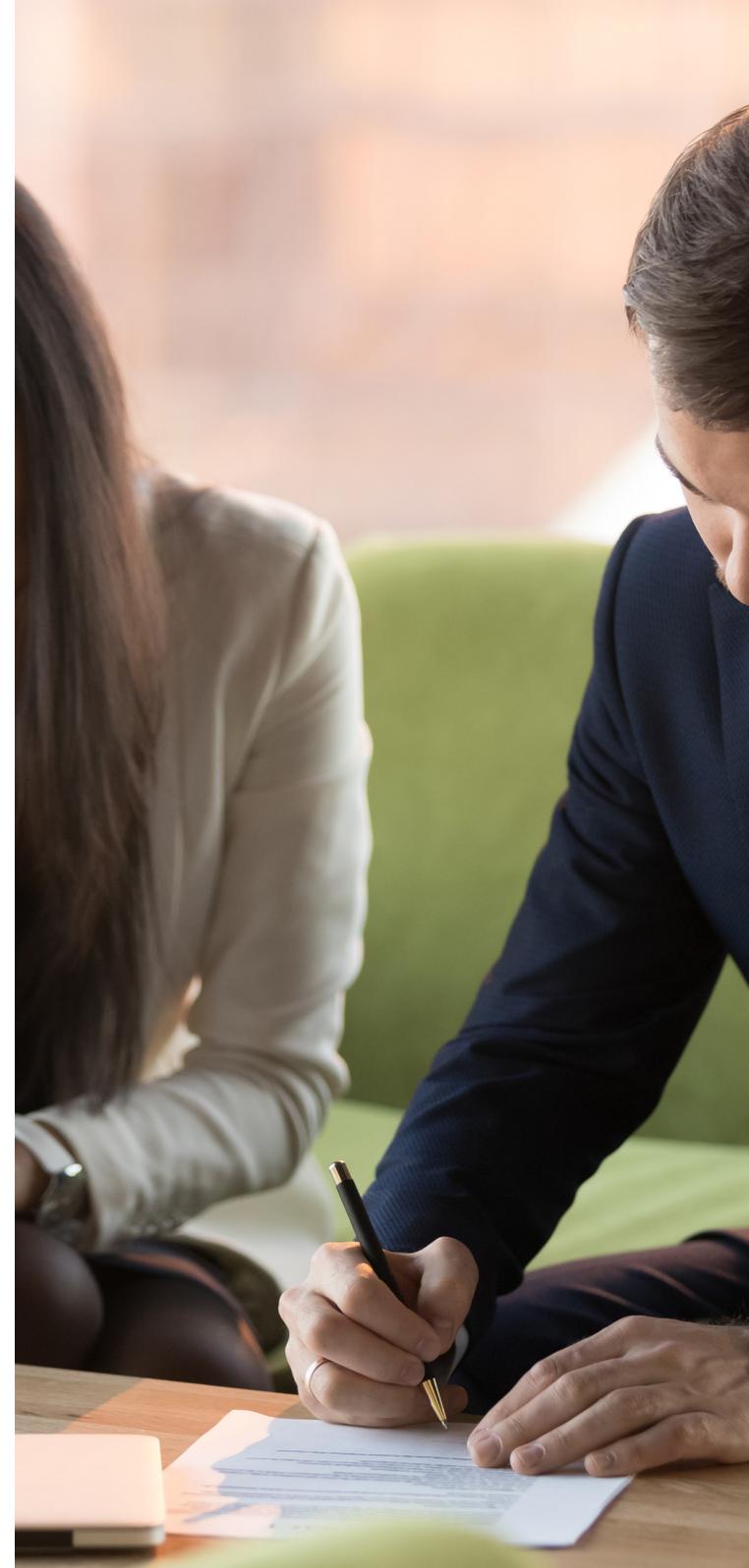
“Pensions were often overlooked in dividing financial assets.”

08

## What happens to non-matrimonial property?

Non-matrimonial property could be an asset inherited or gifted to one party. It could also be something acquired before the marriage, or brought into the marriage by the husband or wife.

This sort of property is not necessarily ring-fenced. If it is not of great value, was not acquired a long time ago, or has become mixed up with matrimonial property during the marriage then the court is likely to share it between the parties. In any event, if the needs of the parties can only be met by taking into account non-matrimonial property then it will still be shared. This is because when it comes to divorce settlements, needs are usually more important than contributions.





09

## What if I need urgent maintenance?

It is possible to obtain an order for maintenance as soon as the divorce proceedings begin even though financial matters have not been resolved. This is called “maintenance pending suit” and will last until the final order is made. These applications are often made when the breadwinner leaves and makes no payment to the homemaker and the children, meaning they are unable to pay essential outgoings.

10



## Will full and frank disclosure be necessary?

It is important to air all of the issues during the financial proceedings. Once an order has been made (whether by consent or decided by a judge) it can be difficult to change. There are only limited circumstances in which a court will consider an appeal or an application to set aside, for example fraud or where one party has not fully disclosed their assets.

“Air all of the issues during the financial proceedings.”



Talk to one of our advisors to find out more:

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