
Using a divorce lawyer: Ten helpful tips

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There are many things to think about when going through a divorce. It's likely to mean changes to who you live with, maybe where you live, as well as changes to your finances. This can be further complicated where children are involved to care for and support. It's a huge change in your life and can be a very difficult and emotional time.

One of the things you will need to consider is whether you want to have a lawyer to help with the divorce process. You can do a lot of the leg work to get a divorce yourself, and there are companies online who offer kits that tell you what to do. Or you can ask a lawyer to do it all for you. There are pros and cons to each approach. This guide seeks to help you decide what might suit you best and what to think about if you do use a lawyer to help with your divorce.

Sadly, sometimes you can have problems with your lawyer along the way. Thankfully the Legal Ombudsman is here to help. Based on the type of issues and complaints we see, here are our top ten tips of what you can do to help make the right decision if you are getting a divorce. And if you do decide to use a lawyer, we hope this guide will help ensure the legal side of things runs smoothly.

1. Consider what you want from your divorce settlement

Getting a divorce may not just be about getting the legal document that says you aren't married anymore. There is often a house to think about, shared finances, or children. Your life is possibly going to be very different once the divorce goes through, and you have to have a clear idea before you enter into the divorce process what you want to try and achieve.

But in deciding what your objectives are for your divorce settlement, you have to be realistic. Courts try to be fair to both sides and are usually unwilling to give one party much more than another unless there is a very good reason to do so. What they will do is look at what each of you needs to live on, and if there are children involved, to put the interests of those children first.

Nor are courts interested in debates about how and why the relationship broke down, who was right and who was wrong. You may think that you deserve more from the divorce because your partner cheated on you or because you feel their behaviour was unreasonable. If a court is involved, they will take an objective view, especially if children are involved. Any settlement the court considers will be designed to be fair taking into account current and future need.

So think clearly about what result you are looking for. The clearer that is in your mind, the simpler it is for your lawyer to understand what you want and the less room there is for misunderstanding.

2. If you can, discuss with your former partner how you will approach the divorce

Divorces are much quicker, cheaper and less destructive if both parties behave in a sensible, co-operative manner. It is not easy – and sometimes simply not possible – to agree before you begin how you will both approach the process. But remember: if you fall out and the divorce process becomes a prolonged and bitter battle, the only ones who win will be the lawyers. If you have savings or equity in your home, these can quickly get eaten up in legal fees. Whatever the financial differences between you, you have one thing in common: you want to give as little of your money as you can to the lawyers.

So if it is possible, it is sensible to discuss how you will approach the process with your ex-partner. Simple things like who petitions for the divorce and what grounds they use – infidelity, unreasonable behaviour, or separation – can cause major upset if they come as a shock. The more you have a clear idea about what you are going to do and what you can expect your ex to do, the easier it will be for you to control your case and keep your costs down.

3. Consider mediation before you instruct a lawyer

Mediation is now a standard option within the divorce process. This is for a very good reason. If you and your ex can agree on the key issues (with or without a mediator) – the arrangements for any children, who

has the house, what to do about savings, money and pensions etc – all the lawyers really have to do is draw up the agreements and the need for a full court hearing (with all the expense and risk of disappointment involved) is avoided.

You may want to make sure you understand your legal position before you consider mediation. It can also help to be clear about your financial and other matters as well, to help agree a settlement. Instructing a lawyer first is an option; a mediator may also suggest this during the process as it can help both parties agree. However, many mediators are also trained lawyers and will help you to sense check the proposed agreements to help make sure you are happy with what is agreed in the longer term.

And you need to be careful about going into mediation with a fixed idea of what a court would decide; mediation works best if both people keep an open mind and are committed to finding a solution that works for everyone.

Again, if you have a mediated settlement, you may reduce your legal costs. However, it is important to note that mediation is not always free and you should be clear about the costs and how it could link to any legal advice before you start. Even if you do not reach a mediated settlement, you will at least have a clearer idea to give to your lawyer about what to expect from your ex.

4. Shop around for the sort of legal service you want

The way we purchase legal services is changing. Ten years ago you'd probably see a local solicitor on your high street. But things have moved on. Legal services are now also available online or through call centres. These modern alternatives might look more cost effective – since they have lower overheads by offering remote services – but they might also be based at the other end of the country, which could impact on how you communicate with your lawyer.

However, this type of service delivery is more likely to work for you if you want to do most of the legwork of getting a divorce yourself. Many firms now offer online 'DIY divorce kits' which provide a complete 'how to' guide on what you need to do to get divorced. Others offer some very basic advice, like checking the forms before you submit them. Be aware that by using these forms you may be taking a risk if anything unusual or unexpected crops up, or if your divorce isn't straightforward and you can't agree what will happen with your partner. Sometimes too, the person responsible for your case may not have the same qualifications or experience as the lawyer on your local high street, which could mean that the advice you get may not be as informed as you'd like it to be.

It is important that you choose a method of service delivery which suits you. One size won't fit all, but you need to be comfortable with the method of service delivery offered by your lawyer.

As you are shopping around for a lawyer, make sure that you understand what services each firm is offering and at what cost. Some firms may offer a fixed quote but make sure that you are aware what this includes and what would happen if something unexpected occurs as this may not be included. Make sure that the quotes are like-for-like. A lawyer will usually charge legal fees plus VAT and disbursements (we explain what disbursements are next). Make sure that all the quotes you get are for the firm's fees, VAT and all disbursements so that you can truly compare like for like.

5. Be wary of hidden costs, disbursements and VAT

Disbursements are sums paid by your lawyer to third parties, such as court fees, expert assessments and barrister fees. Double check when getting a quote what disbursements apply and query any disbursements that haven't been mentioned by other firms if you've shopped around.

Make sure that any quotes you get contain all costs, disbursements and VAT. Beware of quotes that look a lot cheaper than others – as the saying goes, if it looks too good to be true, it probably is.

A lot of firms will not issue you with a quote but will instead provide you with an estimate of the amount of work and their costs. This may make firms difficult to compare. The estimate should provide a reasonable idea of the final bill, however this can sometimes be hard to predict. Therefore, it is important that your lawyer keeps you updated throughout.

6. Get a clear estimate and agree how the case will be funded and how you will be kept in the loop as the cost increases

Once you have decided on the lawyer you are intending to instruct, get a clear estimate of the likely total cost of your divorce. Make sure you know whether it is a fixed cost quote or an estimate and what it covers. You will also need to agree how the lawyer will keep you informed of the cost you have incurred as the case goes on, so that you are able to keep a track of your costs.

In some circumstances there are other sources of funding available. If you are concerned about how you'll pay for your divorce, ask your lawyer to explain if these apply to you. Also, it is worth discussing with the lawyer when you are expected to pay: up front, in stages or after the final settlement.

7. Make it clear to the lawyer the result you are seeking and agree with the lawyer how you will approach each decision in the divorce process

Many of the divorces which go wrong – and the complaints which arise as a result – do so because there is a breakdown in communications. Customers are not clear with their lawyers what they want; lawyers fail to consult their clients about decisions that are being made. When this happens, disappointment is guaranteed.

Clarity on both sides is vital. If there is something – for example a family keepsake – which is not financially

significant but really matters to you, tell your lawyer; if the lawyer doesn't know, they can't make sure that is factored into the settlement. But the lawyer also needs to keep you fully informed about how the case is progressing, asking for your input into key decisions (whether to accept a suggested settlement or challenge it; whether to instruct a senior, expensive barrister or a more junior, cheaper one). That way, there should be less room for dispute between you.

But it is also essential that you listen to what your lawyer is advising you. Lawyers are the experts in the divorce process; that is why we employ them. If your lawyer believes that you are being unrealistic in your expectations or should try another course of action, you should take that advice seriously. It is your case, and you should be able to have the final say, but a good lawyer will have your interests at heart and you should value their advice.

8. Stay calm

Going through a divorce is a stressful experience; the emotions involved can allow for poor decisions to be made. Be aware of how you are feeling and how your partner is feeling. It may be that some of what you are each pursuing in the divorce is for emotional rather than logical reasons and you should think about whether it is worth the cost both in financial and emotional terms.

Remember, the divorce process is not there to decide who was right or who was wrong, or to attribute blame

for the break-up. You may feel it is satisfying to put your ex through hell in the divorce but it can also be very expensive.

You also need to be conscious that your lawyer is a professional adviser and representative rather than a counsellor or friend. Good lawyers will provide a sympathetic ear but they are a very costly way of getting emotional support.

Good lawyers will also sometimes challenge you about what you are doing in a way you may find upsetting; if this happens, it is because they have your best interests at heart.

9. Ask questions

There is no such thing as a silly question. For instance, you might ask what will happen if you change your mind and don't want a divorce at all. Or you might be wondering whether you have to pay towards some of your partner's costs.

Whatever it is, if you're unsure about something, ask. Your lawyer is the legal expert and that's what you're ultimately paying them for. All too often people can feel intimidated when dealing with professionals who are experts in their field but you shouldn't. Most lawyers will welcome questions if there is something you're unsure of or worried about. And it can help prevent problems later on if you mention what's on your mind at the time.

10. Don't be scared to challenge or complain

If there is a problem with your lawyer's service you should tell them. The vast majority of lawyers want to do a good job and will want to try to put it right.

If you don't get what you want, remember that you are entitled to complain. If you do complain, be clear about what you think has gone wrong and what you want done. As always, stay calm and be reasonable. But hold your ground: you are the client and it is your case.

Following our top ten tips should help reduce your chances of adding to the stresses that can come with getting a divorce. However, if things do go wrong, and you can't resolve the complaint with your lawyer directly, the Legal Ombudsman may be able to help.

You can contact us in the following ways:

Call: You can call us on **0300 555 0333**
(Calls to the Legal Ombudsman cost the same as a normal 01 or 02 landline number, even from a mobile phone, and are recorded for training and monitoring purposes.)

We are open Monday to Friday
between 8.30am and 5.30pm.

If you are calling from overseas,
please call +44 121 245 3050.

For our minicom call 0300 555 1777.

Email: You can also email us at
enquiries@legalombudsman.org.uk

If you want to find out more about us and what we do,
please visit **www.legalombudsman.org.uk**

Write: If you prefer, you can write to us at
Legal Ombudsman
PO Box 6167
SLOUGH
SL1 0EH

If you need information in another language or in large print, Braille or on audio CD, please get in touch.