

Divorcing in the silver years

More and more married people over 50 are now choosing to divorce and go their separate ways, instead of facing retirement together.

Carline Gayle-Buckle, Family Law expert at QualitySolicitors Moore and Tibbits, explains the process and gives more details on what a silver divorce involves.

Easier and less expensive

Getting divorced later in life tends to be a more amicable affair. You probably won't have the same complications younger couples face, like young children, uncertain finances or negative equity in the family home.

We tend to find in cases like this there is no need for expensive court room battles. And if you can agree a financial settlement between you, you'll have the added benefit of not seeing your hard earned savings disappear in legal fees.

Where to start

When you've been married for a long time, the starting point, in legal terms, for the division of assets (savings, property, possessions, pensions etc.) is equality. Whilst this may sound simple, owing to the number of assets you've accumulated during your years together, you might find it easier to make your financial arrangements through mediation or using collaborative law. At this point you may want to speak with a solicitor to discuss your options. At QualitySolicitors Moore and Tibbits we provide a Free First Advice service, so you can call us for a chat to find out more.

Mediation

This involves both of you meeting with an independent mediator (who may also be a family law specialist), separately at first, and then together. This is not to try and save your marriage, but help you make amicable decisions about how to move forward and split your finances. Once you are both in agreement, a solicitor will be able to draft any arrangements into a formal order.

Collaborative law

This is where you both meet with your respective solicitors in a four-way meeting to reach a compromise together. If needed, your lawyers may include other professionals in the meetings, such as financial advisors, family therapists etc..

For the collaborative process to work you will both need to agree with your lawyers not to involve the courts. If at any point either of you change your mind you would have to dismiss your solicitors

and instruct new ones. This provides motivation from all involved to reach an amicable agreement together.

Pensions

Even if you haven't reached pension age yet, your pension assets are likely to need special consideration when deciding how to split everything equally. Private pensions, occupational pensions, state pensions and additional state pensions will all need to be taken into account and can be taken care of during mediation or collaborative law discussions.

A pension sharing order is popular in silver divorces. This is where one partner gets a credit or top-up from the other's pension fund to ensure you both get an equal pension income either now or when you reach retirement age.

So, for example, if a husband is already in receipt of his pension, and has a younger wife, it is important to appreciate that she won't usually be able to begin claiming an income from a pension fund until she's 55. If the wife is 53 years old, this means any pension sharing order will not provide an income for her for a further two years. This is described as the 'income gap' and will be something your solicitor will be able to advise you on.

Children and grandchildren

Whilst your children may be grown up and even have flown the nest, it would be wrong to assume that they're going to be as calm about your divorce as you and your partner are. You separating is likely to be a big change for them and it could take a while for them to adjust to it, especially if they now have children of their own. If this is something which affects your family, then you may want to consider introducing a family therapist. Having someone who knows the situation and understands all the feelings involved could be a worthwhile step for everyone.

Our top five tips for a silver divorce

1. Consider an amicable approach to the divorce. Research collaborative practice.
2. Take independent legal advice as soon as you feel ready. Ensure your solicitor is someone you can relate to and feel comfortable with.
3. Consider family therapy to ensure the wider family emerges unscathed.
4. Take independent financial advice to ensure your money will work for you as hard as possible throughout retirement.
5. Look after yourself and your health. Divorce is a stressful process and you will need to invest in your health as well as your finances.

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