

Choices on divorce or relationship breakdown

"I'm going to take him for everything he's got!"

"She took me to the cleaners"

"I don't want to go to Court"

"We'll be washing our dirty linen in public"

"Let's be amicable about this"

These statements are very common when a relationship comes to an end. Suddenly the couple involved are catapulted into a world that is unfamiliar to them, full of legal jargon, and frankly, quite scary.

What should they do first after the initial shock of realising their life is about to be turned upside down? Most people go to see a solicitor within a few weeks of the relationship ending. What options does the solicitor have to offer?

Traditionally, separating and divorcing couples who are unable to agree arrangements for children and financial matters have gone to Court to let a Judge impose decisions on them.

This is no longer the only route. All separating couples have a choice of method of resolution of issues outstanding between them.

1. Some couples reach agreement between themselves. This could be worked out on the back of an envelope in the pub or at the kitchen table. This suits many couples who have no children or whose financial circumstances are straightforward. Nevertheless, in order to ensure there is no "come back" those couples should have their agreement properly recorded and, if necessary, made into a Court Order.
2. Other couples choose **mediation**. This is a process where both of the couple visit one impartial mediator (who may or may not be a solicitor). The mediator's role is to facilitate discussions between the two; to give information about the legal side of separation and divorce, but not to advise. The aim is to look forward and to try to reach agreement on the issues and to ensure future plans for the children and for financial arrangements are workable. Each of the couple will be encouraged to seek legal advice at key stages of the process. The solicitors will not attend the mediation. The couple's solicitors will draw up the necessary document(s) to record any agreement reached and, where appropriate, lodge them at the Court to be made into an Order of the Court.

Thomas Eggar LLP is pleased to be able to offer a family mediation service should you choose to take this route. **Jill Goldman** and **Claire Hamilton-Russell** are our highly experienced mediators, trained by the Solicitors' Family Law Association – now called Resolution, First for Family Law.

3. The **collaborative approach**. Each of the couple involved will instruct their own solicitor who is trained in collaborative law. Very early on the couple and their respective solicitors will sign up to an agreement to deal with all the issues in a collaborative manner, and to reach agreement without resorting to Court proceedings.

Instead of going to Court, the couple and their solicitors will have a series of round table meetings to clarify the issues and to try to resolve them in a conciliatory manner. If an accountant, a valuer or other expert is needed, that expert will also attend. The aim is to reach agreement within a few sessions. If this proves impossible and the couple choose to ask the Court to intervene and make decisions for them, the collaborative lawyers must stand down and hand over the case to 2 other firms of solicitors.

Margaret Hatwood and **Sarah Speed** are our collaborative lawyers, keen to assist you if you choose to take this route.

4. The final choice is to opt for Court proceedings – whether you are getting divorced or you are an unmarried couple or registered Civil Partners who are separating. The Court system in this country is an adversarial one, but all family law specialists at Thomas Eggar LLP are trained in techniques to avoid unnecessarily inflammatory correspondence and to narrow the areas of dispute.

Each of you will instruct your own solicitor who will assist you in preparing your case and will do their best to negotiate an agreement with the solicitor acting for your spouse or partner. At the same time, the Court will take control of the case. It will set a timetable for disclosure of information and will require both parties to attend Court at least once; probably twice, and in some cases three times. Both parties will be obliged to comply with the Court's timetable and directions. Ultimately, the Judge will make decisions which are imposed on both of you. Those with substantial and complex assets, especially overseas assets tend to favour a court based approach. Such cases are usually dealt with by the Principal Registry (the main divorce court in London) with which members of the family team at Thomas Eggar LLP are very familiar.

Jill Goldman, Claire Hamilton-Russell, Shashi Sachdeva, Margaret Hatwood, Sarah Speed, Stuart Ruff, Sarah Tsindides, Alison Britton, Daisy Hutchinson and Andrew Morris are all solicitors in the firm's family department highly experienced in Court proceedings in family work; both in financial and children matters.

Email your enquiry to us or phone 0870 160 1300 to speak to a member of the team.

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