

Deal with *divorce*

Christmas may be a season of happiness and goodwill, but solicitor **Jacqueline Emmerson** of Emmersons Solicitors reveals it's also a time when the divorce rate and family tension soars



Christmas is meant to be a time of joy and laughter but unfortunately for some it can all be a bit too much, with January traditionally being the busiest month of the year for divorce lawyers.

Sadly, the long Christmas holiday can take its toll on thousands of relationships. For many unhappy partners, revelations of a fling at the office party can be the last straw. Financial worries and disappointing presents can also add to the strain.

Over Christmas couples spend longer periods of time together making way for more opportunities to argue. Couples often stay together at Christmas for the sake of children and relatives but at New Year people often make resolutions and think about what they want for the future.

If this is you, then you need to know what the courts look at:

1 Children The court will always try to keep children in their family home. Therefore they will look at the specific capital in the home and which individual can best-afford to keep the property.

If it is a large house that could not be maintained by just one party alone then they may be asked to downsize. The law considers voluntary arrangements in respect of a matrimonial financial settlement and

childcare between parents are more likely to succeed than those imposed by the courts.

2 Income The court will look at how best to achieve what was the income from two people living in one household now living in two separate households. The court will look at the value of property, outstanding mortgage, endowment policies, savings, investment properties and pensions.

The courts usually try to achieve a financial clean break between the parties rather than encouraging financial dependence upon each other in the long-term. This means that the parties are then able to move forward with their lives. If you are concerned about your ex-spouse obtaining part of your income, a lawyer will help you figure out what they are entitled to. The court is often asked to determine whether or not one party should maintain the other and if so, for how long.

3 Debt Is there any debt? Who created it? Has one person in the partnership made more money than the other? The judge will look at the overall financial picture. Obtain a copy of your credit report as soon as possible. In many cases, if a credit card was in your name alone, you are solely responsible for that debt unless you and your former spouse make an agreement

in the property settlement about sharing debt. If the debt was in both of your names, both of you are responsible to the creditor.

4 Pensions Offsetting is one route to consider when handling the division of pension rights in a divorce. Offsetting is when one party receives no interest in the others pension, instead receiving a greater lump sum now. This is usually used to assist that party to afford the property of their choice.

5 Ill health The court will consider whether or not ill health is likely to affect either parties ability to work the hours that they would be expected to work. If there is ill health this can have a huge impact on things such as the amount of mortgage a person can obtain.

The most important thing to remember is, it's not about winning. It is about how to achieve the best for both parties who are now trying to use the same income and assets to run two households instead of one.

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