

A DIVORCE SURVIVAL GUIDE



#New Beginnings

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What to expect and how to cope in emotional times



An unexpected future

Nobody goes into a marriage believing it will end in divorce. But it is an uncomfortable reality faced by almost half of all marriages in the UK. If you're in that situation, it can be easy to feel isolated and overwhelmed.

Divorce is an emotional, draining and difficult process. You may find yourself grieving for your lost relationship. But you still need a clear head as you make decisions that will affect the rest of your life.

This guide is designed to help reduce the worry and uncertainty of divorce by explaining the process clearly, outlining what you need to think about and highlighting what to expect.

Divorce or separation?

When your relationship has broken down, you are faced with two options: divorce or separation.

Separation is less 'final', in a legal sense, than divorce. It begins as soon as you stop living as a couple, even if you still share the same home. At this stage, you may want to consider a separation agreement. This is a contract between you both that sets out how you'd like your assets and income to be divided. However, they don't cover pensions. If you decide to get divorced later, your separation agreement may have a significant influence on your divorce settlement.

Divorce is the formal, legal termination of your marriage. It can result in legal agreements surrounding your finances, property and contact with children. After securing a divorce, you are free to marry again.

Rosie's story

Rosie had been married for 20 years when she found the courage to leave and seek a divorce from her husband.

"I had been unhappy for so long and I knew things needed to change. I simply couldn't carry on like that. I just had to find the courage to make that break," explains Rosie.

"It is a bit like that film 'Sliding Doors' - your life can work out so differently based on the decisions you make. All you can do is be true to yourself and try to do the right thing."

One of the things that Rosie found hard was worrying about how her ex-husband would react during the divorce process. "At every stage I was worried about what he might think. Looking back, there were things my solicitor had advised me to do that I didn't do because of that concern. I realise now that the process would have been a lot quicker - and easier for both of us - if I had felt able to take that advice at the time."

Rosie and her ex-husband have children and now share custody. "As a parent my instinct is to protect my children. However, I've found the best way to protect them is to be honest. Children are so aware of what is happening around them, and if you don't tell them what is going on they will work it out and may imagine things are worse than they are."

Rosie found a lot of support from her family and friends. "The best thing was being able to be with my friends and talk about other things. I found the divorce so all-consuming, that it was important to keep balance in my life. My friends were great at reminding me of all of the other good things I had in my life."

This sense of remembering to look for happiness is one that Rosie found helped her on some tough days. "There is no getting away from it: divorce is horrible. But just because I was going through something really difficult, did not mean that I could not allow myself to find happiness too."

Looking back on her divorce, Rosie realises how far she has come. "I am so much happier now, and I would say to anyone going through divorce, remind yourself why you are making this change, and don't lose sight of that. The future will be a happier place for you."

Rosie can also look back with pride. "I have realised that I am a lot stronger than I thought I was. It took a lot of courage for me to leave and I do feel proud of that."

Rosie's advice

- Listen to your solicitor and take their advice. They have been through this with other people so many times, and really do have your best interests at heart.
- Remind yourself why you are making this change, and don't lose sight of that.
- Recognise that you are a lot stronger than you think you are.
- Try to find balance in your life. It is okay to enjoy doing other things and taking your mind off what you are going through.



"Speaking to a solicitor immediately gave me back a sense of power and control over what was happening."



Before you do anything

At the start of the divorce process, there are a few things to consider straightaway.

Children

Think carefully about how best to explain your divorce to your children. Try not to blame your partner for the split, no matter how much hurt or pain you are feeling.

Watching parents separate can be a confusing and upsetting time for children, so work hard to reassure them of your continuing love and emphasise that what's happening is not their fault.

For more information on supporting your children during divorce, as well as practical tips and guidance, visit: www.resolution.org.uk/supportingchildren/

Will

Your legal status only changes when the divorce process is complete. Until then, you remain your spouse's widow/widower on death.

Take time to revise your Will to ensure your intentions will be carried out if you die. This isn't a difficult process and will help to set your mind at ease.

Home ownership

Check how you own your house. If your spouse owns the house in their sole name, you may need to register 'home rights' against the title to protect yourself. If your house is owned in joint names, there are steps you can take to ensure your ownership does not pass to your spouse when you die.

Joint bank accounts

Consider closing any joint bank accounts so you are not responsible for any future overdraft debts of your spouse. Alternatively, set up an overdraft limit or ensure withdrawals need both you and your spouse's signature.

Milena's story

Milena was married for ten years when her world turned upside down with a separation from her husband. "I was totally surprised and did not see this coming. It was a bolt from the blue," she says.

Four months after separating the couple decided to divorce. "Initially I was in denial and did not want to deal with the reality of what was happening.

"The best thing I did was tell my friends and colleagues about it right at the start. One of my friends at work had gone through a divorce five years ago and she really encouraged me to seek legal advice. I have to be honest that I didn't want to start the process, as it made everything seem real and that there was no going back. But like many things, the first step was the hardest and it ended up being the best thing for me to do – I immediately got back a sense of power and control over what was happening."

According to Milena the choice of solicitor is important. "My first solicitor was very confrontational and I quickly realised that was not my style and not what I wanted."

Following a friend's recommendation Milena instructed Sarah Atkinson from Stephens Scown. "Sarah was 100 per cent on my side and was so fair and level headed. Most of all she was really gentle and understanding, which was what I needed. It was important to me that I retained my dignity through this process – I did not want a fight, or unnecessary confrontation. Sarah ensured that the divorce was conducted fairly, but most of all with dignity."

Milena's divorce was finalised in June 2016. Part of the process involved selling the house she had shared with her husband.

"I stayed on in our home while the divorce progressed and it took a long time to sell. It was really scary having to move eventually and rent somewhere by myself after having been in a relationship and doing all of those things together. Again, my friends were a huge support to me when I struggled with this."

As well as finding support from her network of friends Milena found counselling to be very helpful. "I was lucky that my work was able to fund six counselling sessions for me. The counselling helped me to control my anxiety and find ways of moving forward."

Milena also found it was crucial to look after herself and would advise anyone in a similar situation to do the same. "I started going to the gym more and made sure I was eating well and sleeping. When you feel that someone has been looking after you in a relationship and suddenly you are alone it can be hard to look after yourself, but it is another way of taking back control and it is so important."

It is two years since Milena's relationship broke down. She is now in a much happier phase of her life. "I went back to where I grew up after my divorce for a visit and I got back in touch with an old friend. He is now the most important person in my life, and we are getting married next year. We have also just had a baby – something I thought may not happen in my life after my divorce. I am so incredibly happy now, I can look back and see that my marriage was not right, and this is what true happiness feels like. My divorce came as a total shock, and was a really tough period in my life, but I look at where I am now, and feel proud of how I have coped with everything."

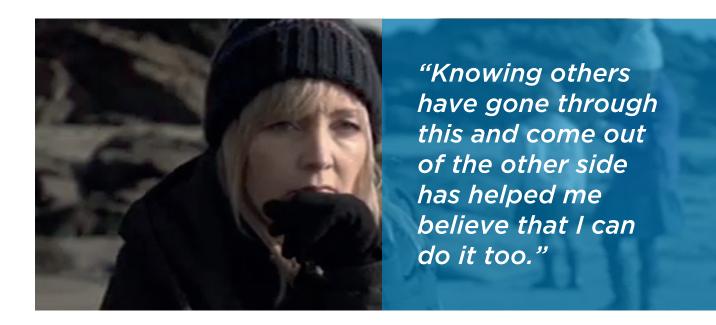
Milena's advice

- Tell your friends and let them support you.
- If you know anyone who has gone through a divorce, they will be a great source of information and advice.
- · Remember to take care of yourself: eat well, try to get enough sleep and take some exercise.
- Don't be afraid to contact a solicitor taking that step will immediately put you back in control of a situation that may have made you feel powerless.
- Ask your friends for recommendations when you choose a solicitor, and if you don't feel like they are the right fit for you, don't worry about changing.
- Counselling may help you to understand what is happening and find ways to cope and move forward.

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How divorce works: the grounds

A divorce can only be granted if your marriage has broken down in one of five different circumstances.



Adultery

Either you or your partner has committed adultery (full sexual intercourse with someone of the opposite sex) and you have not been living together for more than six months since you found out. Your spouse will need to admit that the adultery has occurred, but does not need to name the person they committed adultery with. The ground of adultery does not apply for same sex marriages.

Unreasonable behaviour

This is the most commonly-used reason in UK divorce petitions. The scope for what constitutes 'unreasonable' is large and the other person does not need to admit to the behaviour for the divorce to proceed. The key thing is that one partner cannot reasonably be expected to live with their spouse's behaviour.

NB. Adultery and unreasonable behaviour are the only two grounds for divorce you can use before you have been separated for at least two years.

Desertion

Your partner left you at least two years ago without good reason, or your consent. Your partner intended to desert you and has not returned before the divorce petition filing for divorce has been sent to the court.

Separated for two years and consent

You have been separated for two years or more, and your spouse agrees to a divorce.

Separated for five years

You have been separated for five years or more.

How divorce works: your options

There are five main ways of handling your divorce. You will need to take time to consider each one and assess whether it's right for you. Your lawyer should also be able to provide helpful advice on the best way to proceed and you may use a combination of them.

Mediation

The mediation process is less formal than court proceedings. It provides an opportunity to discuss your affairs under the guidance of a neutral, trained mediator. However, any agreement is not final until solicitors have secured a binding court order. You also need to be able to trust your spouse to give honest, transparent information. If not, another approach may be better.

Collaborative law

Both you and your spouse commit to resolving your divorce without going to court. You enter into a formal agreement to try to resolve issues through a series of meetings between you, your partner and your respective lawyers. The risk is if negotiations break down and you can't reach an agreement on all the key points of your divorce then you have to start afresh with new lawyers. In general, the costs of this approach can be cheaper and it can be quicker too than a fully-contested divorce in court.

Negotiating through your solicitors

If you feel unable to sit in the same room as your spouse, this could be your best option. By conducting negotiations through your solicitor, you minimise emotional arguments and allow compromises to be reached - there are plenty of opportunities for negotiations along the way. However, costs could mount if negotiations are drawn out without a formal timetable in place.

Financial court proceedings

A fixed court timetable encourages negotiation and ensures progress is made. The court also has powers to order full disclosure of information from your spouse, and a judgment will only be imposed if agreement cannot be reached. However, you should consider the potential for high costs and further damage to your relationship with your spouse (particularly if you have children) before committing to this route. It takes up to nine to 12 months if it reaches a final hearing but at least the end will be in sight.

Arbitration

This relatively new approach is becoming more widely available. Arbitrators are neutral third parties who listen to arguments on both sides (with or without your solicitors present) and impose a binding outcome. It can be quicker than court proceedings and has the advantage of being private.

Whatever route you choose it is important that the final agreement or settlement is put in the form of a binding court order otherwise you will have no financial certainty.



"Counselling has helped me to control my anxiety and find ways of moving forward."

John's story

John's story will be familiar to many people who have gone through divorce - a long marriage, which had been struggling for a while.

John finally made the decision to file for divorce from his wife of 20 years when their daughter was 18. "I had known for a long time that the marriage was not working and we had been living separate lives, but I wanted to keep my daughter out of it and avoid any arguments about custody, so I didn't start divorce proceedings until she was 18," says John.

"Ironically, when I sat down to talk to her about what was happening, her reaction was: 'Why did you not do this a long time ago Dad?'"

When John filed for divorce he was working abroad. His wife was living in England, but as she was originally from Africa, she tried to commence divorce proceedings in Africa on a fraudulent basis. This added an extra complication and meant that jurisdiction had to be agreed by the court.

"Once the court had agreed that the divorce could go ahead in England I suggested splitting our assets with my ex-wife keeping our property in Africa, while I retained our UK property. This would have given her 2/3 of our overall assets, but unfortunately she contested the divorce every step of the way."

Because the divorce was contested it took two years to finalise, with multiple court hearings in front of different judges. "I was not prepared for the time and costs to build up like they did. I would advise anyone else getting divorced to expect delays and get prepared for them.

"Although I felt confident that I was being fair and that everything would be sorted out in the end, it did take a lot of endurance to get through those two years."

The courts finally accepted John's initial proposal of how to split assets and he has been able to move on with his life.

John is now in a much happier place in his life. "During the divorce my daughter and I did not have a permanent home, and we moved between rented flats. One of the best things to happen after the divorce was finalised was being able to take out a long-term rental on a new home to share with my daughter. She chose the house, and loves to use it as her base when she comes home on holidays from university.

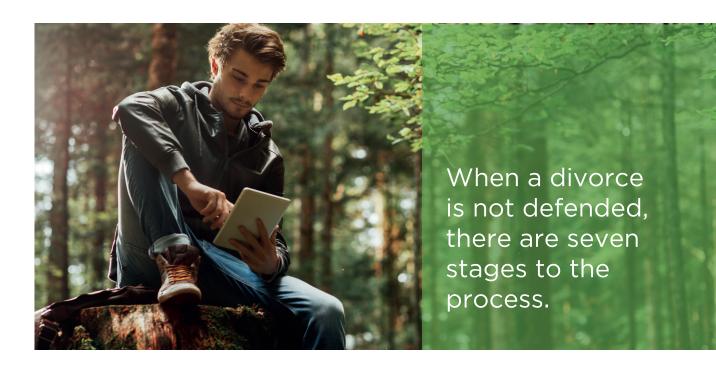
"I honestly couldn't be happier now. I have a great social life and now that I'm retired I finally have the time to enjoy my passion of classical music. I spend a lot of time going to concerts, museums and art galleries and socialising with my friends.

"The divorce was hard, but I can look back and know that it was the right decision and that without those challenging years I would not be as happy as I am now."

John's advice

- Be prepared for the length of time the divorce will take.
- Expect the unexpected and try not to get frustrated with unexpected delays.
- Remember that a happier future is waiting for you.

How divorce works: the process



- 1 The petitioner (whoever is instigating the divorce) sends the application to court. This includes the divorce petition, marriage certificate and a court fee.
- 2. The court processes the application and posts a copy to the respondent (the spouse of the petitioner).
- 3. The respondent returns an acknowledgement to court.
- 4. The petitioner then asks for a judge to look at the application.
- 5. If everything is in order, the judge sets a date for the decree nisi (the first stage of the divorce).
- 6. When the decree nisi is granted, the court then has the power to make a financial order.
- 7. At least six weeks and one day after the decree nisi, usually once financial matters have been resolved, the petitioner applies for the decree absolute. Timing is key as it changes your status.

The law around divorce is not biased in favour of women. Either person can be ordered to pay maintenance if the other earns less.

How divorce works: financial settlements

Achieving a financial settlement is not always straightforward. Both of you will have different needs and resources. There are many factors to consider.

Factors to consider

- The length of the marriage
- Your ages
- Your resources
- The reasonable needs of each of you
- Any health issues
- Any pre- or post-nuptial agreements
- Benefits either of you could lose because of the divorce
 - The needs of any children
 - Contributions you have each made financially.

Any financial settlement will include three aspects: capital (non-pension) assets, pensions and income.

Capital assets

After valuing everything, the starting point is to divide all assets equally. Factors that may justify a departure from a 50/50 split are then assessed. If you owned assets before the marriage or inherited them during the marriage this can be an important factor. Capital assets include your family home, business assets, trust interests, other properties, investments, antiques and cash.

Pensions

Pensions differ widely and expert advice is needed to understand the benefits each pension will produce. On divorce, the court can make pension sharing orders, or award a greater proportion of capital assets to offset any imbalance in pension provision.

Income

This includes child support (if there are children to consider) and spousal maintenance. The Child Maintenance Service (CMS) is responsible for arranging child support, but many couples prefer to make their own arrangements, using the CMS formula, to avoid unnecessary delays, complications and changes. Spousal maintenance is assessed against the needs, circumstances and resources of both parties.

Clare's story

Clare had been with her partner for a long time before they got married, but five years after tying the knot the relationship broke down and the couple divorced.

"Something changed when we got married. I think we started taking each other for granted and we stopped communicating. We both have children from previous relationships and it became clear that our approach was very different," says Clare. "We felt there was no choice but to end the marriage."

Despite agreeing to part ways, Clare and her ex-husband have managed to remain on good terms throughout the divorce. "I made a conscious decision to let go of the bad things and try not to blame myself or him for what had happened. We are both quite similar like that, so we did manage to remain amicable throughout the divorce - which was just as well as we had to continue to live together while everything was being sorted out!"

Clare's divorce was complicated by the fact that she had signed a pre-nuptial agreement before she got married. "For me it wasn't about getting lots of money - I just wanted it to be fair and for me to have enough to live on and meet my basic needs.

"I know there will be other people like me - they may not have signed a pre-nuptial agreement, but they might still be frightened they could not survive financially without their partner. To anyone feeling like that I would say that your happiness is the most important thing and that the courts will ensure that your needs are met."

Clare found positive thinking helped her when things were challenging during her divorce. "I would say to anyone in the same situation, remember that nothing lasts forever. Even when you are at your lowest point try to focus on the future. I know it can be incredibly hard when you are feeling vulnerable and alone, but have faith that things will get better."

A year on from her divorce Clare is doing well. "I'm a lot happier now. I've got a job, which I love. I work really hard and the hours are long, but the people are great and it is fantastic to have my own money and be able to spend it how I please."

Another unexpected outcome is that Clare has got back together with her ex-husband. "Somehow we have managed to come through this and put the past behind us. He has always been there for me and is the person I turn to when I need support. We don't live together now and are much happier enjoying each other's company when we can. It turned out that getting divorced was what we needed to get our relationship back on track!"

Clare's advice

- Try to let go of the bad things and avoid blaming yourself or your partner for things that are in the past.
- Remember that nothing lasts for ever. Things will get better you just need to hang ir there until they do.
- If you are worried about how you will cope financially after a divorce, please speak to a solicitor about your options you may be better provided for than you think.

"One of the best things to happen after my divorce was being able to buy a new house to share with my daughter."



The big decisions

As part of your divorce, you'll need to make big decisions about how to adapt the life you built together during your marriage.



"The best way to protect my children during the divorce was to be honest with them."

Children

As well as deciding who your children will live with, you must also agree what contact the other parent will have and where the children will be educated.

Money

You'll need to decide how to share savings, investments or pensions between you both.

You could also transfer assets between you and your spouse, and must tackle any outstanding family debts.

Property

Will one of you stay in the family home, or will you both need to move out?

If the house is to be sold, you'll need to decide how to split the proceeds.

Belongings

As well as dividing the contents of your family home, you'll also need to agree about things like who's going to keep the family car.

Hazel's story

Hazel was in an abusive relationship, where her ex-husband controlled her finances and was physically and emotionally abusive. Her divorce has required enormous strength and resolve but she now feels like she can see the light at the end of the tunnel.

Hazel and her ex-husband have a young daughter, and her well being has been the main concern for Hazel throughout.

"My first priority was my daughter and ensuring that she was safe. To do that, I had to make some big decisions. I had been made to feel worthless during my relationship and I was not allowed to make decisions, so it has been hard. Having a solicitor has really helped, as I can check things and get the reassurance that I've needed to cope with this," she says.

Mark Smith from Stephens Scown's family team has helped Hazel to agree childcare arrangements with her ex-husband. Hazel is her daughter's primary carer and her ex-husband spends time with her, which started with supervised visits.

"It has been a long process and that in itself has needed a lot of strength. I don't have any direct contact with my ex-husband now, so I've dreaded the times we have had to go to court and I've had to see him again," she says.

"Every time I've had to go to court I've got mentally prepared by imagining putting on a suit of armour to protect myself. I think of Stephens Scown as the knights who are there to fight my corner. I have been voiceless for so long, but now I have someone standing up for me. That has also helped me cope when I've struggled to understand how different judges in the family court can come to their decisions in such different ways."

What advice would Hazel give to someone in a similar situation? "I would say it is important to listen to the advice of your solicitor. I was advised to go to the police very early in the process, but I didn't feel able to."

Hazel has also found strength through a support group for women who have been in abusive relationships. "Being in a room full of people who have been through the same thing has been fantastic. We don't have to explain what this feels like, and that is a relief. We are survivors not victims."

A piece of advice from her support group, which Hazel has found really helpful is to put aside time for herself every day. "Even just 10 minutes to read a book, do my nails or have a bath has helped so much. Self care is crucial when you are in such a stressful situation."

Throughout her divorce Hazel has been surprised how many people she knows or has met who have been through the process. "At some really low points it has been great to hear from others who have gone through this and come out of the other side. That has helped me believe that I can do it too."

Although the financial aspects of Hazel's divorce are still being finalised she can see a brighter future ahead and knows that she has the strength to get there.

Hazel's advice

- Listen to your solicitor they have the knowledge and skills to steer you through.
- Be prepared for different judges in the family court to take a different approach to how they make their decisions.
- Lean on friends and family for support.
- If you have been in an abusive relationship you may find a support group a great source of strength.
- Make sure your own care needs are met give yourself 10 minutes every day to do something just for you.

Sticking points



Which areas cause most difficulty?

Given the emotional nature of divorce and the important issues at stake, there are likely to be times when you and your spouse don't agree on the best way to move forward. The most sensitive issues tend to concern agreements over children, money and assets. This is normal and doesn't mean your divorce is doomed. Getting advice early is important so you know you are taking a reasonable approach from the outset. It can also help to mitigate tax.

What happens if we can't agree?

If you can't agree, using mediators or negotiating through solicitors could help to put the emotion to one side and make it easier to compromise. If possible, your lawyer will help you solve these issues outside of court.

If you still can't resolve your disagreement, you may have to ask a court to pass judgment. Expert witnesses may be called to provide independent valuations or advice on options to divide pensions fairly in financial matters. Any court order is official and provides certainty.

John N's story

John had been unhappy for a long time when he made the decision to end his marriage. The couple had been together for 19 years and married for 10. "My marriage took a long time to break down but I knew I had to leave because I deserved to be happy again."

Initially John suggested that he and his wife use mediation to help settle how they divided their assets. "I really hoped to sort things out amicably and quickly through mediation, but unfortunately my wife did not want to go down that route, and it ended up being a very difficult and expensive process because of that."

John and his ex-wife did not have any children together, so the main issue they had to negotiate was dividing the assets tied up in their home. "The house was originally mine, but my ex-wife was unwilling to move, so I left and suggested splitting the value of the house 50/50." Because the divorce was contested at each stage, it took two years for the courts to rule on John's case. "In the end the judgment was that we should split the house 50/50, so my wife bought my share of the property. There were other assets that I thought about contesting, but in the end I decided it would be less stressful to finalise things after we had agreed what was happening with the house. It is quite hard knowing that I had made that suggestion right at the start, but at least everything got sorted out in the end."

John found the support of his lawyer - Andrew Barton of Stephens Scown - really helped him during the process. "There were many times when I felt really angry about what was happening: it seemed so unfair and I found it hard to sit and listen to lies being said about me in court. Andrew was brilliant at calming me down and being a very levelling influence," says John. John advises anyone in a similar situation to keep focused on the future. "I really had to grit my teeth and think about why all of this was happening. I've run my own business, so I have been used to seeing something through to the end, even when things get tough. I found that it helped when I approached the divorce process in that way too.

"There were times when I had to stand my ground for things I believed were fair and just, but also other times when I walked away because I felt it would not be worth the stress and costs involved in fighting on."

Four years on, John is really happy in his life. "I have got back together with my very first girlfriend. We were a couple from the ages of 16 to 19, and we've found each other again after all this time. My life is so different now - I feel truly happy.

"We have a great life together - we love travelling and spend each June driving around Italy. She has been the most wonderful support, helping me through some really difficult times."

John N's advice

- Think of the big picture and try to focus on the future.
- Accept there are times when you should stand your ground and others when you would be best to walk away.
- Try not to get angry find someone who can help you gain perspective and be a levelling influence on you.
- Sometimes you will just need to grit your teeth to get through it but things will get better.

Moving on

When your 'decree absolute' (either comes through your letterbox or lands on your doormat), you're likely to feel a range of emotions. You may be sad that your marriage is officially over, or you may feel relieved, numb, or happy.

However you feel, it's important to understand that these responses are perfectly normal.



Telling friends and family

Deciding how to break the news to your friends and family can be a difficult process. If you have children, try to agree a way of talking about things that both you and your (ex)spouse can stick to. This prevents children hearing different versions of what happened from each parent.

For more advice about telling people, visit: www.relate.org.uk.

Understanding what happened

It's important to take time to come to terms with your divorce, whether it was wanted or not. Try to avoid placing blame or asking questions about what happened that simply can't be answered. Instead, aim to understand what went wrong. From there, it is easier to move on and look to the future.

For tips and advice on moving on after a divorce, visit: www.relate.org.uk/relationship-help/help-separation-and-divorce/separation-and-divorce-common-problems/how-do-i-move-after-divorce

Useful websites

www.relate.org.uk www.resolution.org.uk www.stephens-scown.co.uk/personal/family



Your new future

Although divorce is likely to be an upsetting process, it also marks a new chapter in your life. Accepting what has happened is the first step to letting go of the past and creating a new beginning.

Focus on things that make you happy. Trying something new or helping others out are common activities that help you push forward. The important thing is to not put limits on your hopes and ambitions. Believe in what you can do, think positively, and start to build your new life focused on the people and things that make you happiest.

In time, you may find it useful to consider your marriage and what you would do differently in your next relationship. But for now, focus on yourself. It's time to create your new future.

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WHY STEPHENS SCOWN?

Stephens Scown is the UK's Law Firm of the Year. We were awarded the accolade by the British Legal Awards, the leading awards for the UK's legal community.

Our family law team, including divorce, are the only firm in Devon and Cornwall to achieve a Tier One rating, the highest level available, from two independent national legal guides - Chambers and Legal 500.

Our friendly and down-to-earth lawyers offer sympathetic, balanced advice to suit your specific circumstances. Throughout the entire process, we stay focused on what's best for you and work passionately, but fairly, to achieve the outcome you need.

To find out more about us, please go to: www.stephens-scown.co.uk email: solicitors@stephens-scown.co.uk #New Beginnings