

Divorce and the Business Owner

Resolution accredited lawyers Bennett Griffin on what you need to know if you are facing a separation or divorce, to make it as pain-free as possible.



The breakdown of a relationship can be devastating emotionally but, when you've a business that you've spent years building and perhaps the livelihoods of employees to consider, then you need to keep a clear head. It's in these upsetting early stages, when life is changing rapidly, that you should bring a legal expert on board to give you the clarity that will allow you to protect your assets and your business.

Whilst your business won't necessarily be treated the same way as your other assets, it can be

considered to be a resource that you have the benefit of; which is why it is deemed to be relevant to your financial settlement.

Karen Fleming from the Bennett Griffin Family Team said, "Any assets that might be thought of as matrimonial property whether that's property, pensions, lump sums or even old inheritances that you or your spouse have already spent are considered within the final settlement of a divorce.

"As a business owner you may want to show that

your company's assets are separate to avoid these being classified as matrimonial property. Certainly if the business provides the income for the future maintenance of your spouse and children then, with the right legal advice, it's less likely to be liquidated since it would cut off your income.

"It is a complex area, especially if your spouse works in the business, has shares or maybe owns the business premises. However, we'd strongly advise against disposing of business assets or selling shares in an attempt to reduce your net worth; since the Courts frown upon such efforts to deprive the other spouse of assets.

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"We offer a comprehensive service and, as well as working with tried and trusted experts such as commercial surveyors and company valuers; we've a Mediator and a Collaborative Lawyer on our team.

"Mediation can help at any stage of the separation or divorce to help a couple to explore the options that are available to them. It improves communication between both parties, which is especially important where children are involved, and allows options to be considered in a more relaxed way."

Bennett Griffin's Collaborative Lawyer, Jackie Mensah explained further, "Collaborative Law is a fairly new way of managing the divorce process. Each person appoints their own lawyer but, instead of negotiations being conducted between solicitors by letter or telephone, everyone gets around the table to discuss matters in a calm, logical way to work things out face to face.

"It allows you and your spouse to take control of the situation and to determine which issues are priorities for you as a separating or divorcing couple. It's a private and respectful forum in which we all sign a Participation Agreement which states that, apart from the divorce, we will not be taking the matter to Court.

"We encourage our Clients to set out their financial settlement in a Consent Order, which is then approved by the Judge. It's as enforceable as an Order achieved through Court proceedings but we find it's more likely to work in the long term since both parties have had their full input in the process.

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"For business owners, who are often familiar with arbitration, this alternative dispute process really suits them. It can help to iron problems out more quickly and allows a practical discussion of all issues to move things forward in an efficient and cost-effective way with far less paperwork.

"Regardless of the approach that's chosen, I would say that effective communication is the key to making divorce or separation as straightforward as possible; especially when both parties may be involved in the business.

"It's an area that we specialise in since we have years of experience in providing expert advice and support to high net worth business owners.

"We understand that going through the breakdown of a marriage is one of the toughest times in your life, but we'll do our best to make things bearable. Talk to us and we'll be there with you and your business every step of the way."

Karen Fleming: kf@bennett-griffin.co.uk

Jackie Mensah: jnm@bennett-griffin.co.uk

www.bennettgriffin.co.uk

01903 229999

