

The Telegraph

How to have a 'nice' divorce

Is a civilised divorce ever possible? Debrett's seems to think so, bringing out a special etiquette guide. What, then, is the 'nice' way to go about it, asks Bridget Freer



Photo: ELEFThERIA ALEXANDRI

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Once divorce was considered beyond the pale. Today it is an everyday occurrence, with the average marriage in Britain lasting just 11.3 years. Yet separating couples are still confused about the right way to behave. Enter Debrett's, esteemed chronicler of the nation's peerage, with a guidebook that tells couples how to break the news to friends and family, who gets to keep the engagement ring and why you should avoid cutting your ex-husband's suits to shreds.

Debrett's Guide to Civilised Separation is not all social niceties, however. Produced in association with Mishcon de Reya, the firm that represented Diana, Princess of Wales in her divorce, it also contains practical advice, from what to look for in a good lawyer to how to conduct yourself in court.

After a brief lull following the credit crunch in 2008, when people felt they couldn't afford to go their separate ways, divorce figures are again surging. As Sandra Davis, the head of family law at Mishcon de Reya, puts it, 'Divorce is like indigestion; it comes up like a bad meal at various stages of your life.' So what can the experts tell us about modern divorce and how it is changing?

The overall rise doesn't quite tell the whole story, for there are two pronounced spikes, with more people in their twenties and thirties – the relatively recently married – divorcing, along with couples who have been married for 30 years or so.

Charlotte Friedman, a former family barrister and the founder of Divorce Support Group, which runs nationwide divorce workshops, attributes the rise in early divorces to the fact that young people have a clearer sense of what they want and deserve from marriage. 'They have the strength after two years to say, 'This isn't right, I'm leaving. That takes enormous courage, whereas before people would just think, 'I have made my bed I must lie in it.'

As for the so-called silver – or Saga – separators, Friedman says, 'Ten years ago people would think, 'I've been in this marriage 30 years, and I'm approaching retirement, I'm not going to leave. But now many of us have long lives and second careers, so people think, 'I'm not having another 30 years of this. We get many people in their fifties and sixties saying, 'Time is precious, I want something different. That is a function of modern divorce.'

Richard Todd QC, a divorce barrister of 23 years' standing, rues the trend to give up on marriages rather than bow to societal pressure to try to make them work. 'We have moved on to be very much more about individually based advice, rather than influence from family or church or wider society. The view is, 'You don't have to put up with it, and that is normally pretty bad advice.'

Todd is a natural optimist. 'I think, given the chance, that the majority of marriages will last a lifetime,' he says. 'A lot of people, 10 years after the divorce, look back on their marriage and have some regrets. That said, Todd feels strongly that most people go ahead and dissolve their marriage only after much soul-searching. 'I have done thousands of cases and I can't think of a single one where they ended the marriage lightly. You don't end all those years of love without really thinking about it.'

Sandra Davis says that financial factors have played a part in the rise in divorce. 'The silver – separators started to spike post –2000 when settlements to women rose significantly, and they could then afford to extract themselves from a long –term marriage that had been unhappy for years without the fear that they would be on the pavement without any funds.'

The English divorce courts' reputation for being generous to ex –wives has led to more foreign women filing for divorce in Britain, adds Richard Todd. Last year he represented Galina Besharova, the ex –wife of the Russian oligarch Boris Berezovsky. Her settlement is widely thought to have been 30 to 40 per cent of Berezovsky's £550 million fortune, which would make it the largest awarded on British soil.

'That was almost like commercial litigation,' says Todd. 'In the big –money cases, the law looks at marriage almost like a commercial partnership, even more so where there are third parties involved.'

Sandra Davis also sees a lot of wealthy clients but says that it is often the division of pets and possessions that causes more problems than the apportioning of wealth. 'People do get hung up on personal items. I know of one case in which both parties were determined to have the dinner service and the lawyers ended up smashing a plate each in the room in front of the clients as a shock tactic, because neither party would give at all. It is important, adds Davis, 'to have the ability to let go – if you are letting go of your marriage you can just as easily let go of some of your possessions.'

Regardless of age, wealth or status, people divorce for all the usual time-worn reasons: infidelity, deception, physical and emotional alienation, changed expectations of life, finding that the person they married has changed. But the difference is that many marriages now unravel in the most public and humiliating way.

'When people are having affairs they cease to be discreet, they want to be found out, c says Charlotte Friedman. 'New relationships are played out on Facebook and Twitter. People post things about going away for the weekend with X, or who has gone to which party with whom, so a client might find out about their partner's infidelity, or that their friends are seeing the other spouse not them, through social media outlets. That is the most public, painful way of finding out. c

In fact, this is such an issue that many lawyers advise clients not to go on Facebook, MySpace or Twitter at all during a divorce, and some firms even stipulate that clients suspend their accounts.

But what about where children are involved? What is best for them? Charlotte Friedman sums up the prevailing attitude: 'If you can keep your marriage together in a way that is not damaging to your children and there aren't violent arguments then of course it is better for them if you stay together. But if you are very unhappy and the marriage is really bad for you, and as long as you hold the children's best interests in mind and don't use the children as pawns between you, then you can have a civilised divorce where the children are fine.

'And that means explaining what is happening, and telling them both parents will continue to love them, and to see them, and that their lives won't change that much. The difficulty of divorce for children is where the parents are maligning each other or not allowing them to have a good relationship with their ex spouse. c

Sandra Davis agrees: 'It is important to be able to look in the mirror in the morning and say to yourself, 'I did what I could. c But a relationship that is toxic and operatic, in which children do not know where they stand, can be very damaging. And the recognition of having two separate households where there is peace and calm in each is better than something negative. c

According to Davis, success here is all down to communication: 'The failure to communicate is so often the reason a marriage fails. You have to find a new way of communicating in order to salvage a Bosnia of a family relationship. c To help kick-start this process, she will often encourage clients at the first meeting to show her a picture of their children, 'so that they are very much in the forefront of their minds; the little people who are going to suffer if they don't behave in a civilised way. c

This communications process is aided by another trend in family law: the advent of mediation and collaborative law. Rather than being pitched against each other, both parties and their lawyers meet to try to resolve matters face to face, the aim being to avoid having to go to court.

While divorce is equally upsetting to both parties, men and women do tend to deal with it differently. 'Men are often used to operating in a commercial environment, c says Sandra Davis, 'and when they take a decision they want to move on with it and, in inverted commas, do a deal yesterday. Whereas women are more likely to be taken through the process rather than lead it because they are not necessarily as

familiar with the commercial jargon. It is often harder for women because they are not generally at a stage where they are prepared to accept the unfairness of the situation and move on.

More women initiate divorce petitions than men, says Davis, but 'that is not a good way of assessing who is taking the decision to divorce. It is generally the husband's behaviour that may have led to the divorce, and he allows his wife to petition. So often the wife or female partner is further back in the process than the male is.

No matter how civilised your divorce, Charlotte Friedman says there will be an aftermath: 'You don't feel very well when you divorce; you feel completely abandoned even if you are the one leaving. Most people have no self-esteem and feel they can't trust their own sense of what is right for them. They loved somebody and this is what has happened.

These aftershocks also affect the sexes differently. 'Women take longer to get over it,' says Friedman. 'They feel they are being left with the pain while the men just move on and have another life.' However, the men she sees can be just as bewildered. 'They also feel bereaved and very hurt and unable to make sense of why they have been left. But the men are more likely to think they have dealt with it. But they haven't. Often if they are with a new partner they may have found somebody else and just slotted themselves into a different life, without coming to terms with what has happened.

It's not all despair, though. Slowly people begin to process the feelings and start to rediscover themselves and think, 'OK, my life, my marriage wasn't that great, and here is a second chance. I absolutely believe divorce is not just an end, it is also a new beginning.

Richard Todd would agree and says that his biggest lesson is 'one of the most awful clichés that time heals. One sees someone right at the start of the case, and things are unmitigatingly black, their lives are falling apart, and they tell you it's a death. Then you see those self-same people a year later and it's amazing how much they've recovered. It is a real testament to the endurance, the quality and the survivability of the human soul that you can be laid so low and rise up again.

Debretonn divorce dos and don'ts

F Always break the news to the children with your partner in private, and display a united front. Explain that the divorce has nothing to do with them and reassure them that you still love them

F Trying to buy your children's love and loyalty is fruitless. You will find yourself spiralling into a frenzy of competitive gift giving. Your children will become adept at playing you and your ex off against each other

F Don't be a divorce bore. Long tales about legal battles will soon have you struck off the dinner-party guest list

F Continue to send birthday cards to your ex-partner and in-laws, and nobody will be able to fault your good manners

F Embark on creating a new look. This is the time to put your ex-spouse's likes and dislikes behind you. You are dressing to please yourself now

Debretts on getting the most from your lawyer

Mediation and conflict resolution are particularly good at minimising the impact of divorce on children. Is your lawyer a trained mediator?

Listen to your lawyer. Even if it's advice you don't want to hear, your lawyer knows the law and how it's likely to be applied to your case

It's tempting to confide in a sympathetic lawyer but it's foolish to do so while the meter is ticking. Seek counselling from professionals, or confide in close friends

Cutting your husband's suits to shreds might seem therapeutic when you're in the throes of rage, but judges will take a dim view of vindictive behaviour. Better to retain the high ground

Arguing about who gets the cream sofa is not a good use of your lawyer's fees. Try to resolve these issues with your spouse. It's foolish to run up fees arguing about items of modest cash value

'Debretts Guide to Civilised Separation' (Debretts, £12.99) is available from Telegraph Books ( 0844 871 1516  ; books.telegraph.co.uk (<http://books.telegraph.co.uk>)) at £11.99 plus £1.25 p&p

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