

# Good Divorce Guide

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Helping you to find the best way forward

## Good Divorce Guide

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A marriage can come to an end for many reasons. While we often read about acrimonious, high-conflict divorce in the media, our experience is that appetite for a 'good divorce' is growing among separating couples and the legal profession.

Sometimes a court application is necessary upon divorce, particularly where a relationship has been abusive or controlling, and we have a team of specialist lawyers with a huge amount of experience in representing people in all forms of family court proceedings. However our belief is that in many cases it really is possible to agree on financial issues and arrangements for children and to part amicably without a fierce court battle.

In doing so, the misery and costs that lengthy and protracted litigation can entail are avoided – not just for the couple involved but for any children stuck in the middle between warring parents.

Whilst we assist clients face to face in achieving a Good Divorce in the ways set out in this guide, we also of course help clients in all of these processes through a wide range of video conferencing platforms where face to face meetings are not possible.

We hope our guide helps show you a positive way forward.



Edward Cooke

Managing Director - Family Solicitor,  
Mediator and Collaborative Lawyer



# 1. Find the right lawyer

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Finding a lawyer with an open-minded, options-based approach is likely to lead to a better outcome.

## Start with Resolution

A good starting point is Resolution [www.resolution.org.uk](http://www.resolution.org.uk) - a nationwide organisation with nearly 7,000 members which promotes non-confrontational approaches to divorce in England and Wales.

## Collaborative lawyers and mediators

For a non-adversarial divorce, it's vital to find a lawyer or a firm which can not only represent you in court (which we can and indeed will, if is necessary), but is also fully committed to non-court resolution options. Lawyers who are also trained as mediators or collaborative lawyers are used to creatively exploring options that help clients find solutions that meet the best interests of the whole family.

## Constructive, open-minded solutions

Sadly, in our experience, when lawyers get involved in protracted correspondence, people frequently find themselves drawn into positions. As such, finding a lawyer who will help you find constructive solutions with an open-minded, options-based approach is likely to lead to better outcomes.

## Taking the right tone

Given this, be wary of lawyers whose marketing includes statements such as 'I fight for my clients' or 'I take a robust approach to dealing with people' as, intentionally or unintentionally, they may lead you down a path to conflict and litigation.

## 2. Get emotional support

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Many people need emotional support in order to navigate their way through this difficult period.

### Be prepared: divorce is tough

Going through a divorce is widely acknowledged to be one of, if not the, most stressful life events we go through. People find themselves not only managing their grief from the end of a relationship but often also having to rebuild another one, in the shape of a new parenting relationship. At the very same time, they are trying to juggle work, support children through a major change to their routines and manage other changes, such as a house move.

### Getting support early

Given all of this, in our experience it's important for clients to get all the support they need at an early stage of what can be a really tough time.

### Explore recommended therapists

A good divorce lawyer should be able to recommend counsellors and psychotherapists who specialise in helping people get through this period of change.

Our firm has links to a wide range of therapists and counsellors and we always suggest this. We recognise that we are lawyers and mediators, not therapists, and that many clients need emotional support in order to navigate their way through this period. We think this is absolutely vital.

### 3. Find a way to parent co-operatively

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Try to co-operatively parent your children to minimise the impact of the divorce on them.

#### Putting children first

Where there are children involved, all the evidence suggests that it is not the fact of their parents' divorce that is likely to damage them; rather, it is the manner in which the parents handle matters that is most likely to risk causing them long-term harm.

Agreeing arrangements for your children can be an emotive and difficult issue - particularly in the early stages of divorce, where the emotional fallout from the breakup can become entangled in the need to parent together constructively.

#### Parent co-operatively

There are, however, ways in which parents can find a way to a better parenting relationship or, as a recently-commissioned report looking at how best to support children said, to 'co-operatively parent'.

#### Consider attending a SPIP (Separated Parents Information Programme)

Attending a SPIP (Separated Parents Information Programme) course can be a very constructive start. These courses are run across the country by specialist trainers and are attended individually by separating parents (with other separating parents). A SPIP gives parents information about the impact of conflict on children and how best to support children through a divorce. Your solicitor ought to be able to signpost you to a local course.

## 4. Try mediation

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Mediation can be a great way to reach a swift and amicable agreement over child and financial matters.

### Consider mediation as a next step

After seeking support from a constructive lawyer, emotional support and help with parenting after parting, if substantive issues over children and finances cannot be resolved directly between you, the best starting point can be mediation.

### Try to reach an agreement with the help of a neutral mediator

Mediation can be a great way to reach a swift and amicable agreement over child issues – and financial matters, too. A mediator is a neutral person (often a family lawyer) who will meet with you and your ex and, over the course of a number of meetings, help you reach an agreement over all issues. You will be advised by the mediator that, as they cannot themselves give legal advice, you can speak to your own solicitor and get whatever advice you require between mediation sessions. Sometimes, as detailed below, solicitors attend mediation with clients (in ‘hybrid mediation’) – we’ll come to that later.

### Giving children a voice through mediation

Many mediators are qualified to meet with children. Our Managing Director, Edward Cooke, is qualified to meet with children as a mediator and finds that parents really benefit from hearing how their children feel. This can help parents move forward constructively, having taken on board their children’s wishes and feelings.

The guidance we follow as mediators is that children aged 10 or over should always have the opportunity to speak to a mediator, as divorce affects children every bit as much as it does adults.

## 5. Or collaborative law...

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Working not only with lawyers but with other professionals in collaborative law can help couples reach constructive outcomes.

### Consider collaborative law as a next step

If you do not feel you can sit alone in a room with your ex-spouse, why not look to resolve issues through 'collaborative law'. This follows the same principles as the mediation process, in that children's interests are at the heart of all discussions; however, instead of the couple attending meetings with just a mediator (which some people may find daunting), they can attend meetings with their own lawyers, both of whom are committed to helping the couple agree all issues, whether in relation to child arrangements or financial matters, out of court.

### Understanding the role of the 'family consultant' and 'financial neutrals'

In the collaborative model, we frequently work with other professionals, known as 'family consultants' and 'financial neutrals'.

- A **family consultant** helps the couple in the collaborative process navigate the emotional pathway through the divorce. This can be via working with the couple together, through individual sessions or meeting with their children.
- A **financial neutral** assists the clients with cashflow forecasting, projecting settlement scenarios and looking at discreet issues such as pension sharing or planning school fees.

### The importance of a multi-disciplinary approach

It makes complete sense to bring in the appropriate professionals to help couples. We sometimes work with family consultants and financial neutrals in mediation, too. This inter-disciplinary approach ensures clients get the right support they need from the right professional to bring about a constructive outcome.



## 6. If that's not possible, there are constructive alternatives...

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There are other ways of reaching a constructive resolution even when things are more difficult.

### Next steps if mediation and collaborative law aren't appropriate

In our experience, if properly supported by professional, principled family law professionals, the vast majority of people can reach a constructive resolution of issues arising out of the breakdown of their relationship, through either mediation or collaborative law.

Clearly, not every couple can achieve ongoing co-operation and constructive resolution. For example, one person may have been subjected to abusive behaviour or may have fundamentally eroded trust. In these situations, things can be more difficult.

### Consider new, innovative processes that help

However, when conflict is higher, we can help clients achieve 'better divorces' than what was hitherto the case, thanks to a number of innovative processes developed in recent years which include:

- Hybrid mediation
- Early Neutral Evaluation (ENE)
- Private Financial Dispute Resolution (Private FDR)
- Family arbitration

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Hybrid mediation and early neutral evaluation are excellent options, particularly in more complex cases.

### Hybrid mediation

In this process, the couple meet the mediator with their lawyers, across a number of meetings. This is an excellent process in more complex cases or in situations where there is a higher level of conflict, since the couple each have the support of their lawyers through the mediation process. The mediator can see the couple separately or together and, as such, there is flexibility to suit the situation. The mediator can also 'hold confidences' in relation to financial settlement proposals – which can be very helpful in enabling the mediator to resolve more complex disputes.

### Early Neutral Evaluation (ENE) or Private FDR (Financial Dispute Resolution)

When all forms of mediation or collaborative law have not led to the resolution of issues, the next best step can be for the couple (either with or without their lawyers) to meet with an 'Evaluator' or 'Private FDR Judge' for an ENE or Private FDR. This form of private hearing takes place before a jointly-appointed, private 'evaluator' or 'judge', who gives an indication, having heard from each party about what he or she thinks is an appropriate outcome.

ENE tends to be used for children issues and Private FDR for financial matters, but their formats are broadly the same. The intention of the process is for each party to hear from a neutral third party as to the likely outcome if matters were to be decided in court, with a view to the parties reaching an agreement without having to go to a full court hearing.

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Arbitration is a good alternative to lengthy court proceedings.

### Family arbitration

If none of the above options is suitable for your case, arbitration is a good alternative to lengthy and costly court proceedings. An arbitrator is privately appointed to act like a judge and make a decision (a determination) on whatever issues the couple have not been able to resolve.

### The benefits of arbitration

Arbitration has its pros and cons. Many couples prefer to reach their own solutions, rather than have an outcome imposed on them either by an arbitrator or a judge. However, it can be a better alternative to court proceedings for a number of reasons – not least in terms of speed, the ability to set your own timescale and, for those in the public eye, confidentiality. It can also be an excellent way to reach a swift resolution on one or two issues, for example if the couple can agree almost everything in mediation or a collaborative environment, but just need help from an arbitrator to make a decision on one or two remaining issues without needing to involve the court.

## Next steps to a good divorce

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In conclusion, whilst the degree of ongoing communication varies between couples, in our experience the vast majority of clients should be able to achieve a good divorce.

The key is to seek the right support and get early advice from a lawyer who is committed to a non-confrontational approach, ideally through a personal recommendation or having researched their experience and credentials.

We hope our advice has been useful and we wish you all the very best.



### Chilgrove | Head Office

Edward Cooke Family Law  
7 Chilgrove Business Centre  
Chilgrove  
Chichester  
West Sussex  
PO18 9HU

01243 769001  
info@ecfamilylaw.co.uk

### Brighton & Hove

Edward Cooke Family Law  
The Dock Hub  
Wilbury Villas  
Hove  
East Sussex  
BN3 6AH

01273 658012  
info@ecfamilylaw.co.uk

Also by appointment at Chichester and Petersfield

[ecfamilylaw.co.uk](http://ecfamilylaw.co.uk)