

## **Living Together Apart – Divorce and Separation in the Credit Crunch**

January is traditionally a hectic time for divorce lawyers. Couples often think of the New Year as a time to make a fresh start and sadly, this can mean the ending of a relationship.

Before the economic landscape changed so drastically, divorcing couples found it relatively easy – financially speaking – to separate and move on with adequate provision.

House prices at their peak meant that many people had considerable equity in their properties : demand for buying and selling was such that if a relationship did come to an end, the property or properties could be put on the market for sale and be snapped up in a matter of months, giving both parties a cash sum to use towards their next house.

Alternatively, if one person wanted to remain in the house and buy the other's interest out, the flow of generous credit offered by the banks and building societies would very often enable them to do so : lenders would agree to extend mortgages without much persuasion, even for people on fairly low incomes. Some lenders would give more borrowing facilities to those on a mix of salary and tax credits – even though the tax credits system has been in disarray, with many people receiving too little or too much money.

For those who could not be released from an existing mortgage, it was possible to self-certify – to simply confirm to a lender that they could afford the repayments for a second mortgage, and off they went to buy a new house.

This meant that divorce lawyers were able to assist couples in structuring a new financial life after separation without too much difficulty.

Then came the Credit Crunch! House prices tumbled : almost overnight, the lending policies of the high street banks and building societies became rigid and extremely risk-averse. Money purchase pension schemes (invested on the stock market) lost much of their value, reducing the amount available to share upon divorce. People lost their jobs and faced long periods of unemployment, affecting everything from repayment of debt to child and spousal maintenance payments. Companies lost revenue and their share values dropped accordingly.

Suddenly, it wasn't possible to sell the former marital home or obtain extra borrowing to buy out the other person's share. Incomes were stretched so that moving out into temporary rented accommodation become difficult or impossible. More and more divorcing couples had to look to their elderly parents for help in standing as a guarantor for remortgages, for example, or in putting up an adult child after they had left the marital home.

For many couples, there is no easy “out” of this difficult situation because the money simply is not there to facilitate a smooth financial restructuring. Many have had to go on living together at home, albeit in separate rooms. This arrangement can be very difficult to navigate, given that feelings may be running high as a result of the relationship ending.

Many lawyers have been trying to assist couples in this situation by helping them find a practical way to cope with the enforced cohabitation they may face, until such time as they can disentangle their financial arrangements. In some cases, formal Cohabitation Agreements have been used which schedule who can use the household facilities at certain times : down to and including bathroom and kitchen usage, and the hours between which one can invite friends or family back to the home.

Meanwhile, house prices are starting to rise, slowly : mortgage lenders are offering more generous packages than they were last year and we are all hoping that the worst is over. If it isn't, it is all the more important that couples considering separation and divorce take advice from fully-qualified lawyers who can help them do the best that they can with what they have – and who will encourage the couple concerned to be as sensible and amicable as possible with each other.

A no-court divorce may be the way forward for couples who feel that they can structure their own financial agreement, with the help of specially trained lawyers. This is known as the Collaborative Law approach : the couple and their collaboratively-trained lawyers meet together to discuss openly the wishes and worries of each person and together, come up with a solution that both people feel is right for them. This approach avoids acrimonious mud-slinging or lengthy and expensive court proceedings – the last thing a couple facing divorce and financial insecurity needs is high legal fees and more stress.

The collaborative approach does not suit every couple but to find out more or to discuss your family law issues in confidence, contact Yvette Rooke at Trethowans (insert contact details, photo etc)