# 7 Key Financial Tips for Women Getting Divorced

**1 - Are you a "Common Law Wife?"**

It is a widely held belief among women that if they are cohabiting but not married that they will have the same rights as a spouse. However, this is a myth.

There is in law no such thing as a "common law wife". This is the case even when you have had children together, and regardless of the period of time you have been cohabiting.

To protect yourself you should have a Cohabitation (living together) agreement. This is designed to protect both you and your partner if things go wrong in your relationship at a later date.

Ideally you would make this agreement when you first move in together. But if you haven't done it yet get it in place as soon as possible.

The agreement will cover for example, how you will deal with property in the event that your relationship breaks down. It can take into account that one partner may be putting more money in to the property than the other, and therefore, on a subsequent sale the proceeds will not necessarily be split equally.

**2 - Are you a stay at home mum?**

Do not assume that because you have been a stay at home mum during the period of your marriage that you will be entitled to a lower share of the joint assets.

In MacFarlane v MacFarlane (2006) the judge ruled that Mrs Macfarlane was entitled to compensation for giving up her career to bring up the couple's children and that equal weight should be given to both domestic and financial contributions to the marriage.

The court will base the financial settlement on the financial needs of the parties, especially the one looking after the children.

Only in cases where the matrimonial assets are more than sufficient to meet the immediate needs of both parties, will the Court move on to considering the concepts of sharing assets.

A judge will aim to divide assets equally & produce a fair result dependant on needs of both parties.

**3 - Does your husband have a sizeable pension?**

Don't ignore the pension. Even though the pension is in your ex husband's name, it is included as part of the joint assets.

In fact depending on the period of time the policy has been in place and the amount of money your husband (or his firm) has contributed to the pension, it may be the second biggest asset after the matrimonial hone.

If you both marry later in life the pension could be a significant sum. It will be valued based on pension accrued to date, not just the pension accrued during the period of the marriage.

There are a number of different options available to you regarding how the pension can be dealt with and you should take advice as to which option is most appropriate for you. (For further information on this download The Pensions and Divorce Guide)

Do not assume that splitting the pension value 50:50 will give you equality. If you are younger than you're ex husband you would need a share greater than 50% to provide the same pension income as him.

Differences in age, health, hobbies and general lifestyle will alter the annuity income available from any lump sum. Therefore splitting the pension pots equally will not necessarily result in equal income.

The greater the difference between the specific annuity rates for each spouse the greater the share will move away from a 50:50 split.

# 7 Key Financial Tips for Women Getting Divorced

**4 - Does your husband have debts?**

If the debts have been run up in your husband's sole name, money to settle the debts can only be taken from his share of the assets. However if the debts are in a joint name (e.g. credit card or mortgage) the wife is also liable. This is the case even if the debts were run up purely by the husband and the wife was unaware.

If your husband is going through bankruptcy proceedings you may have to sell the matrimonial home to cover the debts. Do not assume that you will get to stay in the house, even if you have custody of the children.

If your husband has had debt problems check your credit rating. You will have a financial association with your husband and bad credit history in his name may impact on your credit rating. This will affect your success in applying for a mortgage, credit card or loan.

**5 - Do you need to get a mortgage?**

Don't assume that because you have been paying the mortgage for a particular period of time that the lender will automatically transfer the mortgage into your name. All lenders will deal with this request as a new enquiry and you will have to go through an underwriting process.

Proof that mortgage payments have been made out of your income will not ensure that you will pass the lenders affordability test when only your income is used.

Do not assume that because you re paying interest only on your mortgage now that the lender will automatically allow you to continue with an interest only mortgage if the account is transferred to your sole name.

Lenders requirements in relation to interest only have changed significantly over the recent period. As mentioned above any change in the mortgage account will constitute a new application and will be subject to the current criteria. A lender who allowed an interest only mortgage two years ago when you took out your mortgage may no longer allow it.

A number of lenders will take maintenance payments into account for mortgage purposes. However, some will require that it is evidenced by court order. Do take advice on this as early as possible as to what your borrowing capability is likely to be following divorce.

**6 - Have you done your budget?**

The process of divorce can take many months if not years to finalise. You need to ensure that during that time you have sufficient income to cover your outgoings.

To ensure you know what your money is being spent on keep a record of all you are spending, covering standing orders, direct debits, cheque, credit cards and cash.

If you pay for a lot of things by cash the best thing to do is to carry a little notebook around in your handbag to note things down as you spend. If you wait until the end of the day to note it all down chances are some of the spending gets forgotten.

On a regular basis transfer the data onto some form of spreadsheet so you can see exactly what you are spending.

I recommend you do this over a three month period to aim to see what an average months spending looks like. In addition, a number of expenditure items (e.g. utilities) may only occur on a quarterly basis.

You need to review the results and then consider where you can make savings. Challenge every item on the list and ask yourself do you really need it? If you do, then consider, is there a way you can reduce the cost?

**7 - Are you trying to sort your finances without the need of a solicitor?**

You and your ex husband may be getting on very well now and feel you can sort your finances without the cost of using a solicitor. However, you should consider what will happen if your good relationship changes in the future.

In addition, even once you're divorced, the right of either you or your ex husband to make a claim against the other continues until the rights are dismissed by a court order.

Therefore you should have a Consent Order drawn up to record what you have agreed on. You can then rely on this Consent Order if your good relationship turns sour at a later date.

Unless you have a Consent Order your finances have been deemed to not yet be finalised, and either party can return to court to reopen discussions at a later date- without time limit.

The Consent order will show the settlement reached and will have a "clean break" clause, which shows it is final and binding.

**About Mary Waring**

Mary is a Chartered Financial Planner and Chartered Accountant. She held a number of Finance Director roles within the leasing industry until leaving to become an adviser in 2005.

Mary specialises in advising female clients, going through a divorce. She lives near Hampton Court and works from there, serving clients in Molesey, Weybridge, Esher, Kingston and Richmond, and across Surrey and London. Mary is an affiliate member of Resolution.

You can contact Mary by calling **01932 698150** or by emailing her at mary@wealth-for-women.co.uk to arrange an initial discussion about your financial position and requirements, at our expense and without obligation.

You can follow Mary on Twitter @marywaring.