

Your Questions Marriage and divorce

Why is London the 'divorce capital of the world'?

We want to end our marriage but are arguing over where to do it



Lucy Warwick-Ching MAY 2, 2018

I am a Swiss national and a 40-year-old woman who has been married for 10 years. I have two young children who are five and eight years old. My estranged husband is a wealthy individual who owns a successful international business but we have not been happy for a while now.

We would like to get a divorce but we are arguing over which jurisdiction we should apply for divorce in. I have heard from my friends that London is widely perceived as the “divorce capital of the world” and think this would be the best option for me, but my husband wants to get divorced in Switzerland. Can you please explain why London may be a good choice for me and advise on my potential next steps?

Charmaine Hast, partner and head of family at Wedlake Bell, says before taking the difficult step of starting divorce proceedings, it is essential that you fully

investigate what the Swiss court is likely to award you in a divorce and what the English court is likely to award you in London.

This information should be obtained without delay, as you would not want to be involved in [a jurisdiction race](#), where your husband proceeds in the jurisdiction which is most favourable to him, assuming this to be Switzerland, before you have issued in the jurisdiction which best provides for you and the children.

In any event, should your husband succeed in issuing in Switzerland first, you can ask the High Court in England to grant you an injunction which will prevent him from pursuing his case in Switzerland. Obviously if you and the children are in England, this may assist you in convincing the court that England is the appropriate jurisdiction.



Charmaine Hast, partner and head of family
at Wedlake Bell

Do not forget that you must first qualify to make use of the English jurisdiction and satisfy the English court that you are both or have been habitually resident in England; your husband is habitually resident here; you have been habitually resident here for a year; you are domiciled here and have lived here for six months; or that you are both domiciled in England. Should you need time to qualify for the English jurisdiction, I would urge you to do all you can to put “[divorce talk](#)” on the back burner.

Provided that the Swiss jurisdiction does not provide you with a better result, the English court will consider your claims for a capital payment, an income claim and a pension claim. Unless there is good reason not to, you will be entitled to half of the matrimonial property. This will include a share of the value of your husband's successful international business, provided it was built up during the marriage. Your capital claim will not be limited to this but extends to all his other matrimonial assets. Your matrimonial assets will also be included.



John Darnton, a family consultant at
Bircham Dyson Bell

John Darnton, a family consultant at Bircham Dyson Bell, says the way in which the English courts deal with financial claims can be starkly different from how such claims are dealt with by the courts of other countries. This can be to the advantage of one spouse. Once the options have been identified and considered, acting promptly to start divorce proceedings in the favoured country may be vital.

England can often be an advantageous location for the applicant, not least because it does not have a concept of community property as held in many civil law jurisdictions. In England, property owned before the marriage and inherited wealth is not automatically excluded, but is likely to be available to meet the needs of the claimant spouse and the children. The court will take account of foreign assets and assets held in trust.

Second, English judges exercise wide discretion and have the power to require the transfer of property from one spouse to another, order the making of capital payments or the payment of ongoing maintenance. The court also has the ability to vary the terms of what are known as post- or ante-nuptial settlements.

Third, there is no assumption that spousal maintenance will not be paid or will only be paid for a short duration. On the contrary, maintenance is often ordered to be paid on a long-term basis and the court has the power to direct that maintenance payments be capitalised and made by a one-off payment.

In order to start proceedings in England you will need to prove that your marriage has broken down due to one of the following reasons: adultery, unreasonable behaviour, desertion, separation for more than two years, or separation for at least five years. In your case, can you show that the marriage has irretrievably broken down due to your husband's behaviour? "Irreconcilable differences" will not be enough.

The opinions in this column are intended for general information purposes only and should not be used as a substitute for professional advice. The Financial Times Ltd and the authors are not responsible for any direct or indirect result arising from any reliance placed on replies, including any loss, and exclude liability to the full extent.

Do you have a financial dilemma that you'd like FT Money's team of professional experts to look into? Email your problem in confidence to money@ft.com

Our next question

I have a career average pension that has been dormant since 2003. The fund has been closed to new entrants for some time. I suspect that the fund is overcharged and is underperforming.

I am required to obtain financial advice before transferring to funds to my Sipp. However, the out-of-pocket charge I've been quoted by financial advisers to obtain this advice is in excess of £3,000. Is there a more affordable way to obtain this advice and unlock the pension?

I'm not looking to go to the market as I already have a Sipp and will invest the extra funds myself.

[Copyright](#) The Financial Times Limited 2018. All rights reserved.

Latest on Marriage and divorce