

# WE'VE GOT YOU



## WHO DO HIGH NET WORTH INDIVIDUALS NEED ON THEIR TEAM IN THE NEW ERA?

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The last two decades since the landmark House of Lords decision in *White v White* has been a time of change inside and outside the world of family law. The way we look at and experience the world has changed, what wealth looks like is changing as has the way in which High Net Worth (HNW) individuals want to deal with separation and divorce. Couples divorcing are looking towards more modern approaches including mediation, arbitration and private hearings or a combination of all of the above. However they chose to deal with their divorce, it has never been more important to have the right team to provide legal, practical and financial advice, a sounding board, a voice of reason, vital information and support. So, who do they need on their team?



### The Psychotherapist or Counsellor

The early days of a relationship breakdown are extremely hard for many. It can be like a grieving process and one person may be further along the journey than the other. Many find the decisions they need to make overwhelming even if the level of their wealth offers them more options financially. It is therefore a real benefit to have talking therapy at any early stage whether as a first port of call or alongside legal advice and doing so provides the resilience and maturity needed to maximise the chances of resolving the dispute.



### The Lawyer

It is vital to have tailored and clear legal advice. That expert can adapt

their service to suit the needs of their client with their expert knowledge of what is required. Increasingly, law firms are adapting their approach with the lawyer as a project manager creating a bespoke service for HNW clients in this new age of choice.



### The Mediator

Mediation is a fantastic way of helping separating couples resolve disputes and the mediator is a vital part of the team. The mediator can often be the hub around which the whole team operates pulling everyone together to find a solution. Where clients choose not to mediate all issues or are unsuccessful in doing so, the mediator can still be a vital part of the team, to deal with discrete issues.



## The Wealth Manager

HNW clients will often have a wealth manager looking after their investments already. As part of the relationship breakdown it is important to review their objectives. One party may have had little or no advice and need a new and trusted person on their team. Wealth managers and investment advisors can provide modelling information to ensure that the separating spouse understands whether the capital and income upon which they are basing their proposals will last them long into the future as well as assisting with budgeting and cross checking affordability.



## The Barrister

Despite separating couples in the new age being increasingly attracted to non-court dispute resolution, a barrister is an important member of the team providing clear guidance where needed particularly on thorny legal questions (either to one party or an early neutral valuation about the likely outcome). A private Financial Dispute Resolution hearing ("FDR") is an option in the toolkit with barristers advocating for their clients and another as the private FDR judge.



## The Expert Valuer

The lawyers' and mediators' job can only provide the right advice and information about a fair outcome when everyone knows what the assets and liabilities are. Assets may include shares in a private company, an interest in a trust or a structure involving both companies and trusts. If that is the case, it is vital those assets are valued by an expert accountant and selecting the expert is key to ensure that the report is understandable to all, even those that are not financially savvy. The expert may need to consider minority discounts or liquidity. Tax advice is also imperative. If, for example, a lump sum is going to be paid out of a structure, how is that going to be achieved in a way that mitigates tax but also how much tax will need to be paid and, if so, in what jurisdiction or jurisdictions? Whilst one party may resist a valuation of non-matrimonial property, it is likely to be necessary to assess the overall fairness of any proposed outcome. Land may also need to be valued by an expert who is experienced in valuing that type of land – a different expert may be required for commercial property to agricultural land.



## The Pensions' Expert

Research last year by the University of Manchester suggested that despite pension sharing legislation having been in force for more than 20 years, in many cases, people (particularly women) are still not adequately providing for their needs in retirement as part of the resolution of their finances on

divorce. In the majority of cases, expert pensions' advice is necessary, some of which could be provided by the wealth manager or financial planner, but often a pensions' actuary will be involved. Selection is key to ensure that the report provides clear advice about the options and future income in a variety of scenarios. The pension advisor may need to work in conjunction with a tax advisor if there are issues in relation to the lifetime allowance.



## The Decision Maker

In many HNW cases, all of the above and more are needed. Ultimately, if an agreement cannot be reached using all of the tool box family lawyers in the new era have at their disposal, a decision can be made. If this is not "in court", an arbitrator is increasingly the final decision maker on selected or all issues, whether appointed at the outset or to deal with a dispute which cannot be resolved by other means.

If clients have the right advisors from an early stage they will have a team behind them focused on delivering a fair outcome that works for their family. Ultimately it will maximise the chances of settlement and provide a more cost effective solution.

