

Divorce and the workplace: what can employers do to support employees?

It is widely acknowledged that divorce is one of the most stressful life events that a person can ever go through. Given that most of those who divorce are of working age, employers should take care to understand the needs of divorcing employees and the potential risk areas. In this article, we consider the ways in which divorce may affect an employee at work and what employers can do to help.

Why exactly is divorce so difficult?

Divorce sets in motion a host of extremely challenging issues which usually have to be dealt with at the same time. This could include some, or all, of the following:

- Dealing with the emotional distress of the relationship ending (accentuated where the relationship was abusive) and also helping any children deal with the change.
- Adjusting to the loss of the family unit and managing loneliness and uncertainty.
- Leaving the marital home and living in insecure accommodation for a period of time.

- Worsening of both the immediate and long-term financial situation.
- Having to establish arrangements for shared contact with any children and potentially having increased responsibility for childcare arrangements.
- Losing established support networks (e.g. spouse's family and mutual friends).
- Coping with disapproval from family, friends and/or a religious community.

On top of all of this, in most cases, legal assistance will be required to formalise the divorce and the post-divorce arrangements regarding finances and/or children. This can involve significant legal fees at a time when finances are already stretched. The average cost of a divorce in the UK in 2021 was £14,651.

In acrimonious divorces, the legal process is likely to become protracted and involve costly Court battles to divide up the marital assets and determine issues such as maintenance payments, child custody and contact arrangements. In relationships where abuse was present, the process is even more high stakes, with a fact-finding hearing to determine the allegations of abuse likely to be needed, together with an assessment by Cafcass – the Children and Family Court Advisory and Support Service.

Even the most resilient amongst us would be knocked off course by these challenges.

How might divorce affect your employee at work?

At the very least, a divorcing employee will feel preoccupied by the process – it is time consuming, and they will face lots of practical changes. However, the increased emotional and financial stress, combined with the loss of support, may also lead to anxiety, depression and/or lead to substance abuse. In a 2023 survey conducted by the [Positive Parenting Alliance](#) (PPA), 95% of respondents reported that their mental health suffered when divorcing.

This is not just a personal problem for the employee – it creates the risk of the following workplace problems arising:

- **Performance.** Your employee may find it hard to focus on work and get through their workload in the usual way. There may also be a dip in the quality of work produced.

- **Conduct.** The increased stress could manifest in various ways, with one employee becoming more short-tempered or abrupt than usual, while another may become upset and tearful easily. Where the person's spouse also works for you (or mutual friends of the divorcing couple do) the risk of cold shouldering or arguments at work is raised.

- **Sickness absence.** Another major risk is sickness

absence. The PPA survey reported that 39% of divorcing employees had to take either sick leave or unpaid leave. Yet the loss of one of the remaining sources of stability in an employee's life (i.e. their work routine) could well serve to compound the stress they are under. In serious cases, the employee's ill health may mean they are regarded as disabled for the purposes of the Equality Act 2010.

What can you do to support an employee going through a divorce?

In the PPA survey, just 9% reported that their employers had policies or support in place to help them through their divorce. However, things are changing. Earlier this year, the PPA worked alongside several major UK employers (namely, Asda, Tesco, NatWest, Metrobank, Unilever, Vodafone and PwC), to embed policies and support for staff going through a divorce or separation.

So, what steps can employers take to help employees through one of the most difficult times of their lives?

The starting point is to be compassionate and patient. Accept that this is an extraordinary time in the employee's life, and they will come out the other end. In the meantime, there is no getting away from the fact it will be a difficult time for them.

Where work conduct or capability is affected to a degree which you cannot overlook, consider what you can do to help the

employee turn things around before jumping to instigate a formal process (which will likely only worsen their situation). A combination of the following things could make a difference:

- **Offer additional paid and/or unpaid absence.** Divorce eats up time. Could you offer them additional paid and/or unpaid leave to deal with particular flash points such as Court hearings, moving house or settling children into new schools?
- **Offer to change the employee's working pattern.** Could you offer a flexible working arrangement to help the employee accommodate things such as legal appointments, child pick-ups or counselling sessions? Could you allow them to take more frequent breaks during the working day if they feel overwhelmed or need to make a personal call?
- **Offer to change the type of work the employee has to do.** Think of ways that you can reduce the burden on an employee suffering with stress. Could you reallocate some of the employee's duties for a period of time? Could you redeploy them to a more straightforward role on a temporary basis? It is important to remember here that any changes to a person's job role should be agreed with them and not imposed unilaterally.
- **Offer wellbeing support.** There are a wide variety of

things you can do to help support an employee's wellbeing. Offer regular check-ins with a line manager to help the employee prioritise their workload and identify any particular pressure points (e.g. Court hearing dates or moving house). Do you have mental health first aiders in place that the employee can confide in at crisis points? Do you have an employee assistance programme that includes counselling support? If not, would you be prepared to pay for a private counsellor service? Do you have a quiet space in the workplace where they can retreat to when feeling overwhelmed?

- **Offer practical support.** Could you set up an internal network for people in a similar situation, and bring in relevant experts to speak to the group, for example, a family lawyer, child psychologist or financial advisor specialising in post-divorce matters? If you have an employee assistance programme, does it include the provision of legal assistance?
- **Offer financial support and benefits.** Divorce is likely to place the employee under significant financial pressure. Consider whether you can do anything to help ease this. Could you bring forward a pay rise or bonus, or make a one-off hardship payment? Could you offer an interest free loan or suspend or cancel repayments on any existing loan? Could you commit to improving your pension contributions to help rebuild a pension which will be split in the divorce proceedings? Do you have benefits available which the employee had not previously accessed, but which could now be helpful to them (e.g. a workplace nursery or childcare vouchers)? Explore with them what you have available.

- **Consider reasonable adjustments.** If the employee is suffering with mental health difficulties, it would be wise to consider whether they are disabled. Seek advice from their GP and occupational health and explore whether any reasonable adjustments can be made to remove any disadvantage caused by any working practices. Acas has recently published guidance on making reasonable adjustments for mental health – you can read more about this in our briefing [here](#).

In cases of a serious deterioration in performance or conduct, or a very lengthy absence, you may have no option but to start a formal process, but do still make allowances for the situation the employee is in. Consider the issue within the context of the employee's overall employment record. Offer support and give them a reasonable opportunity to rectify the issue or return to work.

If they are disabled, don't forget to consider adjustments – including to the relevant process itself. For example, it may be reasonable to allow an employee who is feeling vulnerable to be accompanied to a hearing by a friend or family member rather than a colleague. Or it may be reasonable to allow the employee more time than you ordinarily would to improve their performance or return from a period of sickness absence.

Final thoughts

Be compassionate and remember that the acutely difficult phase will not last forever. Show patience and proactively offer your support. This will help your employee get to a “new normal” sooner rather than later and it is something that they are unlikely to forget.

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Amanda Steadman (AmandaSteadman@bdbf.co.uk) or your usual BDBF contact.

World Menopause Day Breakfast Reception – Wednesday, 18 October 2023

On World Menopause Day, BDBF Partner [Polly Rodway](#) and Principal Knowledge Lawyer [Amanda Steadman](#) will be attending a breakfast reception at the House of Lords to launch the APPG's 'Manifesto for Menopause'.

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**Menopause APPG & Menopause Mandate
World Menopause Day Breakfast Reception
Wednesday, 18 October 2023**

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