

FAMILY FINANCES

Sorting out the family finances following the breakdown of a marriage is, unsurprisingly, an anxious time for all parties involved.

If you and your spouse can agree what is to happen, then an application to the court can be made for a Consent Order which details your agreement and makes it binding on both parties. We are able to assist with the preparation of a Consent Order to ensure that it accurately reflects the agreement you have reached.

If you cannot reach agreement and court proceedings are inevitable, we aim to assist you through the court process by providing an explanation at each stage of the proceedings, together with clear, practical advice to help you make decisions. From 22nd April 2014 (unless certain exemptions apply [for example there is evidence of domestic violence]) before an application is issued the court expect that a referral to mediation will have been made to see whether the issues in dispute can be resolved through mediation. However if mediation is unsuccessful or the mediator is satisfied mediation is not going to be suitable the application can be issued.

What Orders can the Court make?

Lump sum order – where one party pays a lump sum to the other

Property order – the court can:-

- order the sale of a property or delay any sale;
- order a transfer of the property into the sole name of one spouse;
- order that the percentages shares in the property be altered

Pension sharing order – an order that one spouse should have a share in the pension of the other

For more information please contact Hodge Halsall LLP on 01704 531991 or visit our website at www.hodgehalsall.co.uk

Maintenance – an order that one spouse makes a regular payment to the other from income

How will the court make a decision?

The court consider first the welfare of any children of the marriage.

Then the court take into account the following:-

- the income and resources of both you and your spouse;
- the needs and obligations of both you and your spouse;
- your ages and the length of your marriage;
- any disabilities either you or your spouse may suffer from;
- the contributions that you have both made to the marriage;
- the conduct of you and your spouse – but only if it is so bad it cannot possibly be ignored. The court will not usually take into account adultery or unreasonable behaviour.
- the value of any benefits that either you or your spouse have lost due to the divorce

When you have reached an agreement

Often you will be able to agree with your spouse what should happen with regard to your finances. If so, this should be recorded in a Consent Order which is sent to the court for approval. If both parties have been independently legally advised the court will usually approve any such order. Obtaining a consent order in this way ensures that the agreement is binding and that you both have certainty. We have wide experience in drafting Consent Orders and will agree a fee with you before proceeding.

For some couples, arranging financial affairs is straight forward. There may be no joint assets and both parties may intend simply to leave the marriage with the same assets that they brought into it. If this is so, it is still sensible to consider recording this arrangement in an Order which can be approved by the court. We can draft the appropriate order for you for a fixed price.

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If your finances are complicated, if there are children involved or if you are simply unable to reach agreement with your spouse and want to instruct a solicitor to advise and assist you but are concerned that you cannot afford legal costs, please contact us and arrange a free initial 30 minute consultation. Following our discussion with you, we will provide you with an estimate for the likely legal costs involved for each stage of the process and discuss with you how these fees can be paid.

Don't forget to visit our website now for lots more FREE resources:
www.hodgehalsall.co.uk/family-disputes

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