

Divorce and the “Credit Crunch”

The impact of the current economic climate is becoming increasingly noticeable in family law. The nature of the way that divorce settlements are dealt with is changing. More couples are looking to effect a “clean break” divorce meaning that the parties have no ongoing financial commitment to each other.

A lump sum payment is involved in a “clean break” divorce to cover the capital and income needs of the other party. Therefore if that party’s income needs are substantial, the capital entitlement could run into large figures to fund a long term maintenance payment.

From the viewpoint of the less affluent party to the divorce a “clean break” is a less attractive approach during the credit crunch. Once the economic climate improves and assets regain their value any claim to have the financial agreement reassessed will be barred as a “clean break” has taken place. Any valuation of financial assets now may be at a significantly reduced value and the party receiving the lump sum based upon that valuation will have received far less than what they might have been able to obtain had those assets been valued when the economy was more stable.

Wealthy husbands and wives are now looking at their rapidly decreasing assets and income and coming to the conclusion that now may be the most beneficial time to commence divorce proceedings.

There is, however, a fear that this adverse impact upon “clean break” divorces may lead parties to seek maintenance based settlements involving regular payments out of income initially calculated on the financial position at the time of the divorce. This enables the party in receipt of maintenance to return the matter to Court at a time when the paying party’s assets and income increase in order to seek a higher financial entitlement.

Now is therefore the time for a husband or wife with assets and who is considering divorce proceedings to try and effect a “clean break”. If this can be achieved it will avoid the need for ongoing maintenance payments and for the receiving party to seek a recalculation once the economic climate improves.

If you wish to seek further advice with regards to divorce and financial matters, please contact Clare Ellison, a Solicitor specialising in family law, who will be able to assist. Clare can be contacted on clareellison@hhlegal.co.uk or 01704 531991.