

A guide to Financial Issues in a Divorce

The break-up of a relationship can be a very stressful and emotional time for individuals. Concerns about finances can mean the divorce process can become hostile and unpleasant. The aim should be to come to an agreement that provides for each party fairly and any associated children involved. This guide offers helpful advice and guidance on some of the financial issues you may experience during the divorce proceedings.



Initial Financial Agreements

Upon your initial separation there should be some sort of financial agreement made. If you are the main or sole earner within the marriage you may have to keep supporting your partner financially before you come to a final agreement. This could include paying the bills even if you have moved out of the marital home. These types of payments should not have any effect on the final agreement that is made. If you fail to provide some form of financial support the chances of your situation becoming hostile are likely to increase.

Equally if you are financially dependent on your partner you should request that suitable payments be arranged. If your partner is unwilling to make reasonable provisions you are able to apply for an interim financial order from the court.

This will require your partner to provide adequate financial support until a final agreement is reached.

Initially there are some steps you should take to protect yourself financially, these include:

- Closing any joint bank accounts if you believe your partner may take advantage of them
- Registering your interest in your home if your partner is the sole owner of the family home. You should speak to a solicitor for more advice on how to do this
- Get immediate advice from a family law solicitor if you believe your partner is shifting any assets

Providing Financial Support for Children

The first priority is to ensure the welfare and financial needs of any children involved. Specifically children that are under the age of 16, children in full time education and children with special needs.

The welfare of children means providing them with a home to live in. This could mean that one parent chooses to remain living in the family home with the children and the other partner moves out. This however is not always the case particularly when there are limited assets. It may be necessary to sell the family home if it's in the best interest of both

parents financially as well as the children.

The parent who no longer lives with the children will normally provide some financial support. An agreement can be made between both parties, however you can also involve the Child Maintenance Service to help come to a fair agreement.

Considerations when Determining a Financial Settlement

The cause of the marriage breakdown rarely has an impact on the financial settlement. The considerations that are made when deciding upon a fair financial agreement include:

- The income of each partner and other financial resources. Pension entitlements are also taken into account
- The needs financially of each partner
- The length of the marriage and the age of each partner
- The full contribution each partner has made to the marriage. This can include the care for children and the family home as well as income
- The family's standard of living prior to the divorce. In many cases both partners end up financially worse off as they each now have the responsibility of running a household

These circumstances will differ depending on the individuals therefore your family law solicitor will advise you on what would be a reasonable agreement in your circumstances.

Agreeing a Financial Settlement

Similar to other parts of the divorce proceedings the financial settlement can be made easier if you and your partner are able to come to a mutual agreement that is fair for both parties. There are a variety of different options available for you to negotiate an agreement; this includes using a mediator or collaborative lawyer or perhaps using a divorce solicitor. You may wish to involve your solicitor for guidance on what would be a fair agreement and then again to tie up the finer details once an arrangement has been made. Expensive drawn out negotiations should be avoided as both sides could end up worse off.

As a starting point each partner should disclose their financial position. If you fail to do this it may mean an agreement you reach could be overturned later on in the divorce proceedings.

You should also begin to establish what your objectives are from the financial agreement. You may decide that you wish to retain the family home. Or perhaps the non-earners priority may be to secure regular maintenance payments. Failure to make arrangements could mean the court will have to impose a solution. There is no set time frame in which you must come to a financial agreement. You are able to get divorced without reaching an agreement. However it is beneficial to come to an agreement as soon as possible. Once an agreement has been made which both partners agree to you should apply to the court for a consent order. This allows the court to review the arrangement and ensure it is fair. It also makes it easier for you to take action if your former partner is not honouring the commitments made in the agreement.

Tips when negotiating a financial settlement

If you and your partner decide to come to a mutual agreement between yourselves you should use the below points as a checklist to ensure you have covered all the major issues.

- Which partner is going to retain the family home? Or will it be sold to provide adequate assets for each partner to purchase a home
- Will one partner continue paying maintenance to the other or will you decide on a one-off lump sum payment instead?
- What arrangements will be made for any children? This includes welfare and financial agreements
- If appropriate how will any pension funds be shared?
- What will be done for any life insurance or other investments policies? Will one partner continue to pay the premiums?
- The changes that you are going to make to your wills

If you agree that one partner will make regular maintenance payments to the non-earner it is important to consider the potential risks:

- Your partner is able to apply to change the payments if circumstances change
- It is likely if you were to remarry maintenance payments will stop
- If your former partner was to die maintenance payments may stop

If you are unsure on any of the points above we would advise that you speak to a specialist family solicitor. At Banner Jones our specialist team of divorce solicitors are on hand to guide you through the divorce process. We will ensure that we get the best financial settlement for you.

Why Choose Banner Jones?

 Ranked in the Legal 500 for services to Family Law	 Over 135 years of experience	 5 Regional offices	 Variety of specialist lawyers	 Resolution accredited	 We have an independent mediation service	 96% of our clients would recommend us to a friend
--	---	---	--	--	--	--

If you are considering getting a divorce contact one of our expert solicitors who will give you specialist advice on the divorce process:

Phone: 0333 200 2300

Web: www.bannerjones.co.uk

Join our Social Networks

