



FINANCIAL ARRANGEMENTS ON DIVORCE

Settling the Financial Arrangements during the Divorce process is usually far more difficult and complex than the Divorce itself. Financial arrangements within divorce are called 'Ancillary Relief'. The primary legislation in this area is the Matrimonial Causes Act 1973. The Act sets out factors which must be taken into consideration in deciding a fair outcome:

- a) The welfare of a child of the family;
- b) The income, earning capacity, property and resources of each person;
- c) The financial needs, obligations and responsibility of each person;
- d) The standard of living enjoyed by the family before the breakdown of the marriage;
- e) The age of each person and the duration of the marriage;
- f) Any physical or mental disability;
- g) The contribution made by each person to the welfare of the family, including looking after the home and bringing up the children;
- h) The conduct of each person, but only if it is so bad that it would be unfair to ignore it;
- i) Any disadvantage to either person which would be caused by the divorce.

The Court has a wide discretion in applying the law. If at all possible it is better to avoid the uncertainty of a Court hearing and to reach agreement on how finances are to be resolved by using personal negotiation with legal advice, solicitor negotiation, Mediation services or the Collaborative Law Process.

FINANCIAL DISCLOSURE

There is a duty for each person to provide full and honest disclosure of their financial circumstances including income and capital.

WHICH ASSETS ARE TAKEN INTO ACCOUNT?

All the assets of the family are taken into account and redistributed to resolve the family situation post-divorce. This will also include pensions; the Court has power to make Pension Sharing Orders on divorce, although this is not appropriate in all cases as alternatives can be used.

MAINTENANCE FOR CHILDREN

Even if the financial arrangements between the spouses are settled through a "Clean Break", which means, although all financial obligations between the couple are dealt with without the further financial involvement, maintenance will still be payable for any dependant children. If an agreement can be reached on maintenance for the children, it is possible to obtain an Order by consent at Court; otherwise the parents need to apply to the Child Support Agency for an assessment, as the Court only retains the ability to make an Order with agreement or in other particular circumstances.

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