

## **FINANCIAL PROCEEDINGS**

### **Frequently Asked Questions**

#### **How do I begin?**

In order to advise you on a fair division of the matrimonial assets and resources we will need 'full and frank' disclosure from both you and your spouse. This information is usually provided in a Financial Statement known as a Form E, which we will provide you with. It is therefore a good idea to start collating information regarding your finances, such as:

- Up to date mortgage statement(s)
- Valuations of any properties that you own either jointly or solely
- Details of all bank accounts you hold including savings and investments
- Details regarding any pensions you hold and an up-to-date statement showing the current transfer value (CETV)
- Details of any employment whether you are employed, or self-employed and your income from such employment

It is helpful for your initial meeting if you have a rough idea of the matrimonial assets.

#### **What will happen to the house?**

This depends on your personal circumstances, the value of the house, the outstanding mortgage and the level of housing that is needed for you and any children as well as your spouse's housing needs. Other factors may also be taken into consideration which will be discussed with you once we have full disclosure. Sometimes it is possible for one person to retain the house but in some circumstances the house will need to be sold.

#### **Are pensions taken into consideration?**

Yes, pensions are treated as an asset and can be subject to a Pension Sharing Order or the less common Pension Attachment Order. This is a complex area and needs expert advice from both ourselves and an independent financial advisor. Various factors are considered regarding pensions such as the age of the Parties and duration of the marriage. It may be necessary to obtain a report from a pension expert.

#### **Will I receive maintenance/have to pay maintenance?**

If there are any children child maintenance will have to be paid to spouse who has care of the child(ren). The Child Maintenance Service can calculate child maintenance, or the Consent Order can confirm any agreement.

In addition, spousal maintenance will need to be considered, which is when one party to the marriage pays the other maintenance. This depends on the circumstances and earning capacities of you both.

**Do I have to apply to Court to settle the financial aspect of the divorce?**

No, we always encourage our clients to try and reach an agreement without issuing financial proceedings as this escalates the costs. However, in some cases this is not possible, and it is sometimes advisable to issue proceedings, for example, where your spouse is not cooperating with the negotiations and a Court timetable will assist or you have exhausted all other methods of dispute resolution.

Negotiations can be between you and your spouse directly, via solicitors or through mediation. We always advise that any agreement that is reached is put into a Consent Order, which is legally binding once sealed by the Court and protects you both from any further applications by the other. Please note, however, that if the Consent Order includes an order for maintenance, it is possible to apply to vary this, for example if your circumstances have changed significantly.