

## **Dealing with your matrimonial financial matters (Ancillary Relief)**

In order to minimise what can be a stressful time it is important that you understand exactly what is involved in obtaining a divorce and what this really means in terms of any financial settlement. Many people believe that a divorce automatically includes the settlement of financial matters and for this reason many people fail to obtain a Final Order (by trial) or Consent Order (by agreement) embodying how their financial matters have been dealt with/divided. This may turn out to be an unwise decision.

We have come across a number of reasons why people have failed to get a proper financial settlement at the time of their divorce. Often people believe that they need not take action because there are no assets to be divided or that they have already divided them. Sometimes it is simply the cost of obtaining a Final Order or Consent Order that causes people not to deal with matters properly. This can turn out to be a false economy. It is likely to be more cost effective to obtain an appropriate order at the time of your divorce than having to deal with a court application in the future if your former spouse decides to apply to the court for the division of matrimonial finances to be considered. For example many of those assets may have increased in value or you may have paid the mortgage by yourself since separation believing the property to be yours. We have seen a number of cases where financial relief has been sought by one party some time after the divorce and because of the increase in the value of the assets over time a lump sum has had to be paid by one party to the other that would not have been required if matters had been dealt with properly at the time of divorce.

Another example is if one party receives an inheritance or wins the lottery after the divorce and no Final Order or Consent Order was obtained dismissing financial claims your former spouse may have a claim on that post Divorce money because there is not the protection of an order preventing such an application. Even if their claim is unsuccessful the cost of defending the proceedings is likely to be higher than if a Consent Order had been entered into at the time of divorce.

If you have no assets then it should be relatively simple to obtain a Consent Order by agreement. You can enter into a Consent Order dismissing all financial claims that you have against each other by virtue of being married. Often this can be done by post without the need to attend a court hearing.

Until a Consent Order is approved by the court either party could go back on their word. Although it is possible to produce evidence of a concluded agreement to the court, the cost of doing so, is likely to be significantly higher than if the matter is dealt with by consent.

If your spouse does not wish to finalise financial matters, it is possible to force the issue by applying to the court for an order. This process is known as an application for Ancillary Relief. The cost of doing this is likely to be much higher than dealing with matters by agreement, but sometimes it is the only way.

It is worth being aware that if you are the respondent within the divorce proceedings and you re-marry before finalising your financial position regarding your first marriage, you will be barred from making any financial application in the future. This may mean that your ex-spouse could retain matrimonial assets if they are in their sole name and you will not be able to make a claim for financial relief. You may be able to make a different application other than one under The Matrimonial Causes Act but ideally matters should be dealt with using matrimonial law and therefore you should bring to an end your financial relationship with your former spouse before remarrying.

If you have decided to divorce or you are divorced; then you should see to it that all matters are properly concluded by obtaining a Court Order either by consent or by applying for Ancillary Relief. It may save you regretting to deal with financial matters properly in the future.