

Finances

When a couple divorces or dissolves their civil partnership, one of the biggest issues is finances. There are some steps which should be taken immediately when separating, and others once divorce proceedings are started.

Initial steps

If you hold credit cards in joint names, you should cancel the cards or remove your name to avoid becoming liable for the debts of your ex-partner. Any joint bank accounts should be amended so that money cannot be withdrawn without the consent of both account holders.

Under intestacy laws, your spouse or civil partner will be entitled to most, if not all, of your property should you pass away before you are divorced. To avoid this, you may wish to consider making a will (or amending an existing will which includes your ex-partner).

If you hold a property in joint names and you have not agreed to hold it as 'tenants in common', your ex-partner will automatically become entitled to the whole property should you die, even if you leave your property to someone else in your will. To avoid this, you can sever the tenancy by giving your partner notice of your intention to sever the tenancy in writing. Your half share of the property can then be gifted to any person you choose in a will.

Finances on divorce/dissolution

It is recommended to attempt to reach an agreement over finances without the need for a court hearing to avoid high levels of costs and encourage amicability. Before a final agreement is reached, we would ask for voluntary disclosure to take place. This involves both parties divulging evidence of their income, property, pensions etc. and allows both sides to have a clear picture before coming to a final settlement. It may also be useful to draw up a list of your income and outgoings, to consider whether regular maintenance is appropriate.

If finances are agreed, we would recommend drawing the agreement into a document called a Consent Order. This can be filed at court to be approved for the fee of £45. Once the Order is sealed by the court, it becomes a legally binding document which takes effect once the final stage of divorce, the Decree Absolute, is granted.

We would aim for this to be filed before the Decree Absolute as after this point, some court orders relating to finances can no longer be applied for. However, the Decree Absolute is sometimes applied for before the finances have been agreed so as not to delay the divorce.

When finances cannot be agreed

If no agreement can be reached, either party can apply to the court for a wide variety of financial orders relating to money, property and pensions. This commences what is known as 'ancillary relief' proceedings. There is no exact calculation used to work out what order will be granted as courts have full discretion. This is in order to reach a fair outcome taking into account all the circumstances of the case. As such, it is hard to predict the outcome of ancillary relief proceedings.

Factors to be taken into account by the court when looking at ancillary relief include length of the marriage, income and earning capacity of both parties and each party's financial needs and obligations. Your legal advisor will be able to look at such factors in detail and give you a considered indication of what outcome you may expect at court.