



frequently asked questions

Private Client - 2008

Divorce & finances

Advice from our family team

These are answers to some frequently asked questions regarding finances following divorce and separation or dissolution of a civil partnership.

All of the assets are in my spouse's name ...

The court has a wide discretion when dealing with financial matters in a divorce or civil partnership dissolution. All assets whether owned in party's sole name, jointly together or jointly with anyone else will be considered part of the matrimonial pot for consideration and potential division between you.

How long does it take to sort out the finances?

This will depend on your particular circumstances. In order to negotiate a financial agreement there needs to be full and frank financial disclosure of your and your spouse's assets, debts, income and outgoings. This exchange of information can be done on a voluntary basis if you both agree and then negotiations can begin. However this voluntary process is reliant on both parties co-operating fully.

In some cases this approach may not be possible and then either party may issue a financial application (known as ancillary relief proceedings). This means that the court will set a timetable imposing a date by which financial disclosure must take place, followed by a date for both parties and their legal advisors to come to court to consider how the case should move forward following disclosure.

In the majority of cases where proceedings are issued, matters are concluded in approximately six to nine months, although where things are either particularly straightforward or complicated this might be shorter or longer respectively.

Even if proceedings have been issued, both parties are under a duty to continue to negotiate. If you reach an agreement, you may not have to go to court at all. It is important to remember that whilst you might reach a financial agreement, it can take longer to implement the terms of the agreement as you may, for example, have to sell a property or realise assets.

I am concerned about the possibility of selling the house whilst the children are still at school. Will I have to?

Sometimes it is possible to postpone the sale of the house until the children have left school but it depends on many factors. If possible, both parties should be placed in a position to re-house and this can result in the family home having to be sold straightaway. If this is not appropriate, then the primary carer of the children may be allowed to stay in the house until the children leave school but every case is different and a lot depends on the value of the property and the means of both parties.

If my wife/husband divorces me, am I going to end up paying for all the costs?

You may be ordered to pay your spouse's divorce costs but these costs will only be for the work necessary for the divorce and not the costs for resolving finances or issues about children. The reason for the divorce, and who instigates proceedings, is largely irrelevant to the financial outcome. Exceptions to this are where one party has deliberately spent or hidden matrimonial assets, or if a party fails to comply with court orders. The court may then take this conduct into account in either the order it makes or by ordering the non-complying party to pay costs, but this is unusual.

Will I have to share my pension?

A pension is an asset that is considered for division. This can be achieved, where appropriate, by a Pension Sharing Order or by giving your spouse another asset of similar value. In the event that a Pension Sharing Order is made, the agreed or ordered share of your pension would be deducted from your fund and placed into a pension fund in your spouse's name.

Private client services

No two relationship breakdowns or related family problems are ever identical. A tailor-made approach is essential to meet each family's requirements. We can provide specific advice on:

- divorce
- separation
- civil partnership
- financial issues
- pensions
- children
- cohabitation
- prenuptial agreements
- mediation



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Jenni has worked at Morgan Cole since 1988. She has extensive expertise in all areas of family law, including divorce, judicial separation, financial disputes, children issues and pre-nuptial agreements, with a particular focus in dealing with financial disputes ancillary to divorce and judicial separation.

More information

To discuss your individual requirements, please contact Jenni Howard on telephone 0870 366 4644 or email at jenni.howard@morgan-cole.com.

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