

Our Services

Divorce and Family Law

Divorce and Separation: explaining your financial options

Agreeing to a financial settlement can often be the main source of difficulty when couples separate and divorce. Deciding how to divide the family home, cars, joint savings and other assets can be stressful, upsetting and complicated.

At Walker Smith Way, we will be alongside you every step of the way, to help you secure a fair settlement.

Your financial arrangements do not need to be decided by the courts. We can negotiate a settlement with your partner's Solicitors that avoids a costly court process and gives the two of you the ability to decide. Only if you are unable to agree on a financial settlement will the court become involved. The court will then be asked to approve your agreement and make it into a binding court order - called a Consent Order.

When are financial issues dealt with?

Financial negotiations can take place at any point during the divorce process. We may advise you to delay the final stage of your divorce if you are still to agree your financial affairs with your partner.

Separation

If you and your partner decide to separate rather than get divorced, legally you remain married and therefore responsible for one another financially. We can help you reach an agreement and draw up a separation contract.

If you have a Judicial Separation, whereby you remain married but all matrimonial obligations come to end, the same laws for divorce apply to your situation except that you cannot have a Pension Sharing Order. In the case of divorce and Judicial Separation, you can reach a binding settlement through negotiation - or ask the courts to decide.

Divorce

The law regarding settling financial matters for divorce (called **Ancillary Relief** by the courts) is very flexible and the aim is to achieve fairness, which is different in every case as it depends on the individual circumstances of each case.

Starting Point: Disclosure

Whichever way you decide to approach your financial settlement you must both provide **full and honest disclosure**. We will need you to provide details of all your financial and personal circumstances with documentary evidence in support. The following list is not exhaustive but the information required includes:

- House Valuation
- Mortgage Redemption Statement (available from your mortgage provider)
- Details of any bank and building society accounts, with copy statements
- Details of any investments; shares, ISAs, etc
- Details of all life insurance policies, including endowments with or without a surrender value
- Personal belongings
- Details of liabilities
- Details of all business interests
- Pension, the cash equivalent transfer value (CETV)
- Income, P60 and recent payslips
- Schedule of outgoings.

If your circumstances change as your divorce or separation progresses (for example you receive a rise or a bonus), you must inform your Solicitor straight away.

What happens if we do reach an agreement on finances between ourselves?

You will not have to go to court. Your Solicitors will draw up a Consent Order which will be sent to the court for approval. This will give you both finality and certainty, as this order can be enforced by law.

What if we cannot reach a financial settlement?

If you have tried and failed to reach an agreement between the two of you via your Solicitors, the court will then become involved in resolving financial issues. We will be alongside to advise you every step of the way, whatever happens.

What will the Court take into account when making a decision?

If negotiation has failed, the court will look at your individual case and decide how your finances should be split in accordance with your situation. They will look at a number of factors including:

- Your age
- How long you have been married
- Your financial needs and the needs of any children
- How you have both contributed financially to the marriage
- Standard of living during the marriage.

The courts can then make an Order in the following three areas of claims:

1. Capital Assets Order

This deals with how any property or other capital assets will be divided. We will work with you to advise you as to the decision a court is likely to make, so you are well prepared.

2. Pension Orders

This orders how pensions will be dealt with on divorce.

3. Income Order (Maintenance)

Income orders vary greatly depending on the individual circumstances. Maintenance payments can be made for either a fixed or ongoing monthly period. These can be affected as soon as one partner moves in with a new partner or remarries. These can vary in the future depending on any changes in your partner's income or your own circumstances.

Further information

At Walker Smith Way you will always receive the best advice and recommendations to suit your specific circumstances. We will advise you on what the court is likely to take into account when making any decisions and the likely outcome.

For further information, please contact the Divorce and Family Law team on Chester 01244 357400 or Wrexham 01978 340400.
