

Financial Settlements on Divorce

Upon the breakdown of a marriage, one of the most important issues to be resolved is for the parties to settle their financial affairs so that the family assets are fairly distributed.

Negotiating and Reaching an Agreement

Our specialist Family Lawyers always strive to reach an agreement on behalf of their clients by negotiating with the other party. Successful negotiation can be cost-effective and can assist in keeping the matter amicable. This is important, especially if there are children of the marriage. A “round the table” meeting between spouses and their respective Lawyers can be arranged to broker an agreement or, at the very least, identify what the remaining and real issues are.

When an agreement has been reached between the parties, its terms should be embodied into a Court Order. The reason why an Order of the Court should be obtained is because the financial issues surrounding the breakdown of the marriage are still outstanding even if Decree Absolute has been obtained which is an unsatisfactory situation.

Financial Disclosure

It is an essential part of the process that each party provides full financial details to the other. This can be done voluntarily or with the assistance of the Court. It is usual for financial disclosure to take place by both parties completing and exchanging a financial statement which will include a Statement of Truth.

The Court Process

If it is not possible for the parties to reach an agreement voluntarily or there are problems encountered with one party not providing full and frank financial information then the Court can be asked to resolve the matter.

Before any application can be made to the Court, with some exceptions, the parties should attend a Mediation Information Meeting to ascertain whether the issues can be resolved through mediation, rather than Court Proceedings. If this is not possible an application is made to the Court.

In the vast majority of cases, a settlement is reached prior to the Final Hearing taking place which will save significant legal costs. Obviously, this cannot be guaranteed but our Family Lawyers always endeavour to reach an agreement, providing it is in our clients' best interests.

What is a fair, just and reasonable settlement?

Each case depends on its own facts and the Law has to be applied to the particular facts of each case. There are many principles and factors which need to be considered when ascertaining what is a fair, just and reasonable settlement. Above all other factors, the law states that the needs of the children of the family are paramount. All the circumstances of both parties are taken into account when considering a fair and reasonable settlement, such as income and future earning capacity.