

Divorce and Financial Settlements

Divorce is where spouses bring their marriage to an end and formally dissolve the marriage by receipt of Decree Absolute.

There is one ground for divorce in England and Wales and this is “irretrievable breakdown” of the marriage. To prove “irretrievable breakdown” a petitioner has to rely upon one of five facts:

1. The respondent’s adultery;
2. The respondent’s unreasonable behaviour;
3. Separation of 2 years with consent;
4. Desertion or;
5. Separation of 5 years without consent.

When getting divorced, it is very important for spouses to try and reach an agreement regarding their matrimonial finances, including but not limited to, the family home and any property, their pension funds and any future income needs.

An agreement can be either negotiated or mediated, or in the absence of any such agreement, determined by the Court. Either way, once a final settlement has been reached, it should be recorded in a Court Order known as a Financial Remedy Order. The benefits of such an Order are that it is legally binding and enforceable and clearly set out what is to happen to the spouse’s assets, income and liabilities when they are no longer together.

Many people, especially those with limited resources, often do not see the need to enter into such an Order. However, this is unwise as no one knows what their financial position will be in the future and the entering into a Financial Remedy Order offers protection from future financial claims, not only in relation to the marriage but against your estate upon death.

For further information about financial settlements on divorce, take legal advice.

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