



/guide

Your questions answered

WHAT IS A CONSENT ORDER (DIVORCE)?

This guide explains what a consent order is and when you would use one.

Consent orders are legally binding documents that formalise the specifics of the financial obligations agreed between a divorcing couple.

Consent orders play a large role in the divorce process, so ensuring you fully understand what a consent order is and what they mean is a crucial part of getting a divorce.

Consent order definition

Marriage opens financial obligations towards your spouse, which are not automatically brought to an end through divorce proceedings. The final order of divorce only ends the contract of marriage and divorce opens up the possibility of making financial claims against your spouse, to enable capital, income and pensions to be distributed following the breakdown of the marriage.

Unless there is a separate order that also dismisses or otherwise deals with the financial claims that are available upon divorce, those claims remain open indefinitely.

This is the case even if you and your spouse reach an agreement directly and divide your assets between you.

A consent order can include:

- Financial claims such as capital income and pensions to be distributed
- End date for claims, to stop them from continuing indefinitely
- Enforcement for delayed or withheld maintenance payments from an ex-spouse
- Obligations for certain assets such as pensions to be paid

The consent order is the only means by which you can be certain that any agreement will be upheld by both spouses.

Do you need a consent order?

It is surprising to a lot of people that a divorce does not end the financial relationship with your ex-partner. So, if you get divorced and don't get a consent order, your ex can still make financial claims against you in the future (if they have not remarried) even after many years have passed.

Why is an order needed? Quite simply, to ensure that the settlement is final and enforceable. If no order has been made then, unless they have remarried, either party can go to the court and make a financial claim against the other, even years after the divorce took place.

And if one party does not keep to the terms of the settlement the other party will need to ask the court to take steps to enforce the settlement, but the court can only take enforcement action if the settlement has been incorporated into a court order.

If you do not apply to the courts for a financial order, then you leave your finances open to any potential claims in the future. A consent order also can include details on spousal and child maintenance arrangements, so a court could enforce these if the maintenance is not paid.

How do I apply for a consent order?

You will need to complete a Statement of Information (D81) which gives a snapshot of your current financial position. This form requires the following information:

- Your assets (e.g., bank accounts, business assets, properties, vehicles)
- Your debts (e.g., credit cards, loans)
- Your pension (you will need to provide a CETV – Cash Equivalent Transfer Value for each pension you may hold)
- Your income (you will need to include earnings, benefits, rental income, maintenance)

To help a judge understand the rationale for how you've decided to split your assets, it is a good idea for the consent order to explain what you are seeking to achieve. The judge will check that this is fair and achievable.

Once the order has been drafted, and the other party or their solicitor has agreed its terms, it will be sent to the court for approval and endorsement.

It is important to note, however, that it is not merely a matter of sending the order to the court and the court rubber-stamping it. The court is not obliged to make the order just because both parties agree to its terms, so you cannot assume that the judge will grant your order.

The court will still want to ensure that the order is broadly reasonable. For example, you cannot assume that a 50/50 split is fair. The judge will take into consideration the means and circumstances of both parties.

When to apply for a consent order

You can apply for a consent order at the conditional order stage of divorce proceedings or, any time after the final order, providing neither of you has remarried.

Usually, a consent order is prepared in readiness for when the final order is granted.

Once the final order is in place, the consent order becomes legally binding.

How long does it take to get a consent order?

If the court approves the order, it will seal it and send copies to both parties, or their solicitors.

If the contents of your consent order are very straightforward, the court usually takes 6-10 weeks to process the application. However, this is dependent on which court you use to file.



How long is a consent order valid?

A consent order is valid indefinitely. A consent order does not expire.

Can anyone get a consent order?

How the court checks whether the order is reasonable, and fair is to require each party to file a 'Statement of information for a consent order in relation to a financial remedy' form, setting out brief details of their means and circumstances.

The statement includes such information as the ages of the parties, details of any dependent children, the capital and income of the parties and whether they are in a new relationship.

With this information, the court should usually be able to determine whether the terms of the consent order are reasonable.

However, there will be instances where the judge is not satisfied, and they may require the parties to attend court to explain why the order should be made.

If the judge is still not satisfied that the order is reasonable, then they may simply refuse to make the order. This will mean that the financial/property settlement is not final so that either party could still claim against each other.

If the court approves the order, it will seal it and send copies to both parties, or their divorce solicitors.

If the contents of your consent order are very straightforward, the court usually takes 6-10 weeks to process the application. However, this is dependent on which court you use to file the order with and any backlog.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit www.stowefamilylaw.co.uk



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