



Reaching a financial settlement in the Coronavirus pandemic

In the midst of Coronavirus chaos, everyone has a lot on their minds, namely the health and wellbeing of their loved ones. Unfortunately, they may find that other ongoing difficulties continue to rumble on in the background, which still need to be resolved including reaching a financial settlement in the Coronavirus pandemic.

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For example, if you are currently going through a separation, the sense of uncertainty you were already feeling may be compounded by what is going on across the globe. Having some information and knowledge on what your financial situation would look like post-separation, may be welcome to you at this time.

Family lawyers have received briefings from Courts across the UK, most notably the update from the President of the Family Division, Sir Andrew McFarlane on 19 March 2020 which confirmed that the aim is to “keep business going safely”.

For the time being, President McFarlane’s recommendation is that Family Court hearings should be undertaken remotely either via email, telephone, video or Skype. But where does that leave parties who are not necessarily in Court

proceedings now, but are trying to reach a financial settlement in the Coronavirus pandemic?

Financial disclosure

The first step to reaching a financial agreement is ordinarily the exchange of financial disclosure. Parties who are already some way down the road in trying to reach a financial settlement with their ex-partner or spouse may be aware that financial disclosure usually takes place by way of a Form E. This is a form that both parties complete setting out their financial position in detail, to include the particulars of their assets, pensions and income.

Accurate financial information

In this time of great uncertainty for businesses, it may be difficult for accurate financial disclosure to be provided. Private pensions are likely to be impacted by the fluctuation of stocks and shares. Form E asks the parties to estimate what their income might be for the next 12 months.

In light of these changing times, many people may find this a difficult question to answer. In particular, those who are self-employed, depending on the industry that they work in, may find themselves putting a question mark in this box. This leads to another very good question: how do you reach a financial settlement when you don’t know what the next 12 months hold?



Once financial disclosure is exchanged, one could try and make an educated guess as to how they can be divided. It is anticipated that the property market will slow, in part due to the fact that people will not be able to allow prospective buyers into their homes for viewings nor will they be able to view homes for sale, in the interests of avoiding unnecessary contact with other people.

On 23 March 2020, the government brought in new strict measures to tackle the spread of coronavirus, including no unnecessary journeys or social contact. We must all now avoid face to face contact with other people wherever possible.

Contingency plans

This is not to say parties cannot be assisted by taking some legal advice remotely. Instead of making decisions based on definitive figures, it may be that parties come up with a few contingency plans which could be incorporated into a financial agreement.

For example, you could agree between you that the property should be sold and that the proceeds be divided into percentages. If the property doesn't sell, you would go to "Plan B", which could be one party remaining in the property and buying the other out.

Consent orders

Upon reaching a financial agreement, your lawyer will record this into what is known as a "Consent Order" before sending this to the Court for approval. It is quite common for Consent Orders to provide for a number of alternative outcomes. What you want to ensure that is that your Consent Order has been drafted clearly and comprehensively.

Some companies and industries are far less affected by the need to work digitally because they are already operating in this manner. This is certainly a wakeup call to those not already working this way and to the Family Courts, which are in desperate need of digitalisation.

If you and your partner feel confident that due to the nature of your work your income is not likely to fluctuate in the foreseeable future, there is no reason why you cannot continue to negotiate as you would have before Coronavirus darkened our news feeds.



Separation agreements

For those not in that camp, you may wish to consider a Separation Agreement, which is a document recording how you and your spouse will deal with matters until you decide whether to proceed with your divorce. This could provide you with some much-needed certainty as it can outline matters such as who will pay for which bills, what will be done with savings, property and investments.

A Separation Agreement can go further than the finances and also deal with the interim arrangements for your children. Once you know where you stand, the financial aspects of a Separation Agreement can later be converted into a Consent Order, with a view to making it legally binding.

The preparation of Consent Orders and Separation Agreements can still be carried out by the team at Stowe Family Law and appointments are available by email, phone and video conferencing.

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