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Your questions answered

WHAT IS A FINANCIAL SETTLEMENT?

This Stowe guide explains what a financial settlement is during divorce, including how they work, what they include, and how you obtain one, as well as the reasons it's beneficial to obtain a legally binding consent order.

What is a Financial Settlement?

Going through a divorce is never easy, and one of the most challenging aspects is often the division of financial assets and responsibilities. This process is known as a financial settlement, and it plays a crucial role in determining how assets and debts acquired during the marriage will be divided between spouses.

The financial settlement will include various financial elements such as:

- Property,
- Money, such as savings and investments,

- Debts, such as credit cards and loans,
- Personal items, including cars and jewellery,
- Household contents,
- Business interests,
- Pensions, and
- Spousal maintenance payments.

The end goal is to obtain a financial consent order, often referred to as a clean break order, although whether your finances are suitable for a clean break is case specific.

How to obtain a Financial Settlement

The negotiation of a financial settlement can be a complex and emotionally charged process. There are certain factors that the court would consider, and it often helps to consult with a family lawyer who can guide you through the process and advise on what would be a fair division of the matrimonial assets.

There are various options available for dealing with financial matters, and reaching a financial settlement including:

- Direct discussions between spouses,
- Mediation,
- Negotiations through solicitors, and
- Court proceedings.

Whichever route is taken, it is important to consult a family lawyer to obtain a financial consent order. It is also important that you ensure that you are fully aware of what is in the pot for division, this is normally done through a process known as a financial disclosure.

The financial consent order will outline the financial settlement and once approved by the court, is legally binding. This is a very important document as without one, your financial claims will remain open, even if you are divorced, and one person could make a claim against the other at any point in the future.

On this, be careful of the remarriage trap! If you don't obtain a final financial order from your divorce and you decide to remarry, you cannot apply to the court for a lump sum of money, spousal maintenance, or property adjustment from your former spouse.

How does a Financial Settlement work?

Whichever route you have taken to reach a financial settlement, the financial consent order will record that agreement and will outline how that agreement is to be implemented. For example, if one spouse is to pay the other a lump sum, there will be a deadline in the order for that lump sum to be paid.

Exactly how assets and liabilities are divided, and what deadlines should be imposed, will need to be carefully considered.

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

What happens if my spouse does not follow the financial agreement we reached?

One of the reasons why it is so important to obtain a financial consent order is so that the financial agreement is legally binding and can be enforced. If your spouse has not complied with the financial settlement, for example, they have not released you from the mortgage by the deadline set, you should consult with a family lawyer to discuss the options available to you.

What if I don't want a Financial Consent Order?

It is important to discuss this with a family lawyer so that you can obtain appropriate legal advice. You could obtain a document known as a Separation Agreement. A Separation Agreement is a formal legal document, a contract, but it is not a court order. It is essential that both parties receive independent legal advice so that the merits and pitfalls can be discussed.

I divorced years ago but never obtained a Financial Settlement, what now?

It is important that you consider obtaining a financial consent order to protect yourself from future financial claims from your ex-spouse. At Stowe Family Law, we have expert lawyers who are experienced in financial matters arising from divorce who can help you obtain a financial settlement.



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