Divorce and Finances

Frequently asked questions

Family Law

Fact Sheet 2

Why choose Beeston Shenton Solicitors for Divorce and Financial Advice?

We know that when it comes to divorce or dissolution, our clients want to get it out of the way as quickly as possible and in the most cost-effective way, so that they can start re-building their life. However, we also know how crucial financial settlements are in providing stability, especially when children are involved. That is why we will never rush you for a decision. Instead, we will offer practical solutions and pragmatic advice tailored to your needs, actively making suggestions that work for you. We possess specialist knowledge in relation to financial proceedings and will provide advice on the various options available from mediation to roundtable meetings as a way to negotiate a settlement in an attempt to avoid Court.

Why have your Divorce and Finances settled at Beeston Shenton Solicitors?

At Beeston Shenton, our solicitors are expert negotiators and are members of Resolution. Therefore, you can trust us to provide clear advice on resolving financial based disputes. We also offer a strategic approach to your situation, and we use strong negotiation techniques, encouraging trust and compromise from both sides in order to reach agreement. We also use specialist external advisors, such as specialist financial counsel to assist in more complex matters.

What is a Financial Agreement?

A Financial Agreement is a legally binding document which is created after a divorced couple have reached an agreement on a range of important issues, this can include child maintenance, spousal maintenance and the division of property.

How will Divorce affect your finances?

Divorce is a life-changing process. Naturally, your finances will be affected. There are a number of factors that should be taken into account regarding post-divorce finance:

- **Interim financial concerns** – when a couple has been together for a considerable amount of time, the chances are that they rely on each other financially in some way or another. Therefore, planning for immediate impact on separation is sensible. From our experience, assisting couples through the divorce process, we can provide you with bespoke advice from the earliest stage of proceedings, including any urgent interim applications that may be required.
- **Maintenance after divorce** – with such a significant change, you will want a plan on how to structure your finances over the coming few years.
- **How much will your ex-partner be contributing?** This information is vital for future planning and security. Separation might be tough, but you should never have to worry about not being able to support your children should you choose to go your own ways.
- **Property and divorce** – potentially the most crucial issue. If you are joint tenants or tenants in common, different advice may be required.
- **How will the profits be split if you sell the house?** These are all essential considerations, as divorce related property matters vary from case to case. If you are considering separation, our divorce solicitors can advise you on your unique situation and help you understand your legal position.
- **Pensions and divorce** – pensions will be divided according to your unique circumstances and can depend on how long you have been married and your respective ages. Whilst pensions may not play a significant role in the divorce between younger couples, if you and your new partner are aged 50 or above, it will be necessary to look at how your pension will be affected by divorce. We can use skilled pensions actuaries to advise further in relation to this.
- **How are finances usually divided in divorce?** The aim is to divide the assets as fairly as possible and refer to our advice sheet that deals with the Section 25 criteria that the Courts utilise to make decisions. This may mean that the assets are not divided on an equal 50/50 basis, but it is essential the parties are left on equal standing and both breadwinner and homemaker are treated equally. As stated above, children will be considered first and foremost, and must be provided accommodation with the primary carer. After ensuring that both parties reasonable needs have been met financially, where there is surplus, the Court will go on to divide the remaining assets. To do this, the Court will consider matrimonial assets (assets bought during the marriage from the joint earnings of both parties) and non-matrimonial property (assets obtained outside of the marriage). Whilst most assets will be matrimonial property, any gifts or inheritance from one side of the family will generally be seen as non-matrimonial in the first instance. The Court will also seek to achieve financial separation from both parties, known commonly as a clean break. This means there will be no further financial links between the couple.
- **Are business assets included in a financial settlement?** The answer to this question is often yes. Business assets form part of the assets to be discussed during negotiations. They must be fully disclosed beforehand but division of these assets will be based on your individual situations. Whilst it may be you who set up the business individually, your partner's contribution to the marriage could be seen as equally important, and in this case, each partner could claim entitlement to half of the value of the business. However, each situation is different and treated on its individual facts. As your solicitors, we are fully aware of all business assets involved in order to assess how they will be divided.
- **Does it take a long time to deal with finances?** Once an application is made by way of an Application for Financial Relief (Form A) to the Court to deal with family finances, a strict timetable is put in place.

The Court gives directions to what financial information is required and will also set a date for the First Appointment to ensure adequate disclosure has been obtained. A date will then usually be scheduled for a Financial Dispute Resolution hearing (FDR) when consideration is given as to whether finances can be settled without the need for a full blown trial. Alternatively, if settlement cannot be reached, a date is set for a final hearing dealing with the financial claims. At any point during the process, agreement can be reached between the parties that by-pass the steps in this process. In such circumstances, the parties can lodge an agreement in terms of a financial consent order. Financial proceedings normally take between 6-12 months although this can be extended if there are any unique particularly complex issues arising out of your divorce.

- **What if my spouse refuses to pay maintenance?** If your arrangement resulted in a Court order and your spouse is still refusing to pay, you can apply to Court to enforce the order. One route of enforcement is to apply for an Attachment of Earnings Order, so if your spouse refuses to pay, your maintenance is deducted from their salary at source before they receive it. If the financial arrangement was not made official through a Court order, you will have to apply to the court for an order.

Please see our Financial Orders fact sheet for further details as to what orders a court can make when dividing matrimonial assets.

CONTACT INFORMATION

Please feel free to contact your local Beeston Shenton office to discuss your own position and concerns.

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This fact sheet is for general guidance only and should not be treated as a definitive guide or be regarded as legal advice. If you need more details or information about the matters referred to in this fact sheet please seek independent formal legal advice. This information was correct at the time of going to press in July 2022.

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resolution family team