

# Divorce & Your Finances

Untangling your finances can be more complex and fraught than untangling your relationship.

Emery Johnson Astills has produced this fact sheet so that you know a little more about what to expect.

Financial settlements in divorce can take the form of a 'clean break' or an ongoing maintenance arrangement. Even where there is a 'clean break' agreement, maintenance can still be payable for any dependent children.

The starting point for any settlement is to obtain full and honest disclosure of assets by both partners.

Under the Matrimonial Causes Act 1973, the court has wide powers to make financial orders as it sees fit and will take into account:

- The welfare of any child(ren) of the family
- The income, earning capacity, property and resources of each person
- The financial needs, obligations and responsibilities of each person
- The standard of living enjoyed by the family during the marriage
- The age of each person and the duration of the marriage
- Any physical or mental disability

- The contribution made by each person to the welfare of the family, including looking after the home and bringing up children

- The conduct of each person, but only if it is so bad it would be unfair to disregard it

- Any serious disadvantage to either person which would be caused by ending the marriage eg loss of pension provision

Should you have to resort to the court to settle a financial dispute, you will exchange financial details with your partner within a legal framework.

This framework has been designed to encourage more agreements at an early stage to reduce the cost: both emotionally and financially.

The timing and wording of any application for an order is critical and your Emery Johnson Astills solicitor will provide the essential advice you need.

There are also implications for remarriage in certain circumstances. For example, if your divorce is concluded but your finances remain unresolved, certain claims can be lost on remarriage.

On the next page you'll find a guide to identifying your assets, together with where to find a useful form to help you to calculate your assets.

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## Identifying your assets

Your main asset is probably your family home. As the needs of any children are the most important factor, the law recognises the importance of maintaining a suitable home for them.

However, it is likely that there will be a number of ways to achieve this and your Emery Johnson Astills family team will discuss your options and the wide powers of the courts with you.

Sometimes, a pension can be an even more valuable asset than your family home and the law now allows a pension to be included with the assets to be fairly distributed on divorce. Even where this is appropriate, it is a complex area and the fund will not always be divided equally.

Don't forget to contact your own former employers to ask whether you have any pension provision and check your eligibility for a state pension.

In cases involving pensions, family businesses, trust funds and other investments your Emery Johnson Astills family team will guide you and call upon specialist expert advice where necessary.

They can request documents from your spouse's solicitor or resort to the courts power to order documents to be divulged if you do not have access to these.