

# Separation Agreements - Protecting Your Property and Finances

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## A Short Guide to Separation Agreements

Sometimes couples choose to separate but, for a variety of reasons, decide not to go ahead immediately with divorce proceedings. Many people who go down this route will just have verbal agreements regarding finances and arrangements for the children. As far as any children are concerned, the more that can be agreed informally, the better. However, when it comes to money matters, there could be very real disadvantages to carrying on without a formal written separation agreement. It may also be that any benefits of delaying the divorce are outweighed by the potential downsides and uncertainties, even if a separation agreement is put in place.

A separation agreement is any agreement that provides for a couple to live separately. However, a formally drawn up and witnessed document has scope to deal with all aspects of the couple's finances, such as who will live in the family home or whether any maintenance should be paid, and should ideally set out the form of financial settlement that will ultimately be presented to the court for approval when the divorce goes through. Entering into a separation agreement is far less uncertain than simply deferring the question of the financial settlement until the divorce proceedings are initiated. Furthermore, separation agreements provide the legal certainty needed to protect both parties financially as it can be challenging to prove the terms of any verbal agreement.

## Key elements and likely contents

### Agreement to live apart

Central to a separation agreement will be the couple's acceptance that they will live apart. They may agree a timescale for one or both of them to set up a new home elsewhere.

### Maintenance

It may be appropriate for one party to pay maintenance for the benefit of the other personally and/or for any children they might have. They could also deal in the agreement with the payment of school fees, the payment of a mortgage or rent, and how other outgoings will be met.

Particular thought should be given to dates and circumstances under which any agreement to pay maintenance will end.

### Property

The parties will almost always need to set out their agreement as to how the matrimonial home they share will be dealt with, whether that means a sale, one party buying the other out or giving up a tenancy within an agreement timescale. In addition, the parties will probably want to include terms covering any other properties they own, their savings and investments, responsibility for any debts and the sharing of household contents.

### Financial disclosure

The cornerstone of a properly put together separation agreement is that there has been full and frank disclosure of each party's financial circumstances. Without this, it is difficult to ascertain what would be

considered to be a fair and reasonable agreement.

If you would like any further information regarding the above or would like to book an appointment to discuss the same, please do not hesitate to contact the Family Law Department on 01384371622 or email [post@wjclaw.co.uk](mailto:post@wjclaw.co.uk) and we will be more than happy to assist you.

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