

The Financial Clean Break Order in Divorce Settlements

When a marriage or civil partnership has broken down and the divorce or dissolution is in progress, the most contentious issue can be achieving a financial settlement that both parties agree.

A financial settlement can deal with things like:

- maintenance for either of the parties
- maintenance for children of the family
- dividing capital (savings, investments etc.)
- any change in ownership of the family home or other property
- dividing the proceeds of the sale of the home
- sharing of pension schemes

The financial clean break order

A financial clean break order is a court ordered financial settlement that ends all monetary claims between the spouses or civil partners, except in relation to maintenance for children as this is almost always dealt with under a separate statutory scheme. Once a clean break order is made, the court cannot deal with any future claims by either party, other than in truly exceptional circumstances.

Even if a couple has mutually agreed upon the financial arrangements and sharing of assets upon separation, a clean break order would protect against any future claims and help bring about secure financial autonomy going forward.

When a clean break may not be suitable

In certain cases, it may not be feasible to end the parties' financial ties. In such cases, division of assets may not yield enough to leave both parties with finances sufficient to each set up new homes.

Further, if one party's earning capacity is non-existent or much lower than the other, a clean break may only be possible if substantial assets or a lump sum can be transferred to that party to meet their needs. If this is not an option, then maintenance may need to be paid to them indefinitely or, increasingly these days, for a defined period of time. This is more common where one party has taken time out of employment to look after young children.

Courts will deal with divorce financial settlements on a case-by-case basis with the ultimate goal of eliminating monetary ties between the new households whilst ensuring that the interests of any children are given first consideration.

Making sure of a clean break

If a clean break is appropriate for your circumstances, then the only way to guarantee that there are no future claims made against you by your former spouse or civil partner is to get a clean break order. Without this there is always a possibility that you could be faced with a claim for financial provision such as maintenance or lump sum orders. Only an order submitted to court and approved by a judge can protect you against this situation. It is usually straightforward to put in place and could save considerable uncertainty and legal expense in future.

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 and we will be more than happy to assist you.

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