

FAQS regarding a financial remedy.

How long will a divorce/civil partnership dissolution take?

The minimum timescale to bring a divorce/civil partnership dissolution to conclusion is approximately 6 months. The Petitioner must wait a period of 6 weeks and one day between the decree nisi (penultimate stage of divorce) and decree absolute (final decree) to make an application to dissolve the marriage/civil partnership.

When can I apply for a financial remedy?

If you have agreed a settlement in the form of a consent order then you must wait until after the decree nisi has been pronounced. If you have been unable to reach an agreement then you can apply for financial relief as soon as your petition has been issued. If you are considering applying for your decree absolute before settling finances then you should take legal advice before doing so as it can impact on financial benefits you acquire as a result of marriage. You are however still able to apply for financial relief if necessary after the marriage in most circumstances.

Is there an obligation on me to attend mediation in advance of issuing court proceedings in my financial matter?

You now have to show you have considered mediation before issuing proceedings. There are some exceptions, although you will normally at least have to attend a meeting called a MIAM with a mediator to discuss mediation. Mediation involves the use of a neutral and qualified third party mediator to enable parties to reach a consensus through a series of meetings concerning their financial or children matters. Legal advice from a solicitor can be referred to whilst engaging in this process.

Which financial orders can the Court make?

The Court can make orders in relation to financial maintenance, lump sums, property and pension and, in the event of your death, against your respective estates. These claims can continue to exist unless they are terminated by a court order or by agreement or by settlement between the parties.

What is fair and reasonable division of Assets on divorce/ civil partnership dissolution?

What is a fair and reasonable division of assets on divorce/dissolution of civil partnership depends according to your individual circumstances. Matrimonial law in the UK is tailor made and handcrafted to the facts of each individual case and there are no hard and fast rules to determine provision of assets as no two given cases are the same. When deciding what is fair, the court will have full regard to the checklist at s.25 Matrimonial Causes Act 1973. Of particular importance will be the needs of any dependent children, whose welfare will be of paramount consideration to the court before exploring your respective needs. Before advice can be given, a detailed investigation into the parties financial positions and needs will have to be undertaken.

Is the other party's conduct important when making a financial claim within divorce/civil partnership dissolution?

Conduct can rarely be relied upon in financial proceedings as it needs to be conduct so grave that the court cannot ignore it. In all other cases the court will not try to weigh up the parties conduct in an effort to establish who was responsible for the marriage breaking down.

Is there such thing as a common law marriage?

No, there is not. There are laws relating to jointly owned property or property jointly contributed towards, and for financial provision for unmarried couples with children, but there is no such thing as a common law marriage. You should take legal advice regarding these issues.

Will I get 50% of the assets?

Not necessarily. The Court does use equality as a starting point for considering what would be a fair distribution of assets, but then can depart from that when considering a number of factors, including your respective needs, and those of any children, and the factors set out in s.25 Matrimonial Causes Act 1973.