

HOW TO AGREE A FINANCIAL SETTLEMENT ON DIVORCE

A financial settlement on divorce is an agreement between spouses on how to split their assets and liabilities, including pensions.

For a financial agreement on divorce to be legally binding, it must be approved by the courts. The courts retain a discretion to make the financial order that it considers to be fair.

Is mutual agreement possible?

It is important to establish at an early stage if it is possible to reach agreement between you. Try starting the process with a detailed list of all assets and income streams, as well as all liabilities, present and future. Remember to include pensions.

When you understand what the available assets are, it is important to take legal advice so that you can understand the options available to you, enabling you to dovetail them with your priorities when structuring your agreement. Try to avoid a situation whereby you reach an agreement on financial matters only to find that it is not possible to implement it. A common example of this is

For a financial agreement to be legally binding with a view to preventing future claims, it must be approved by the Court

when dealing with the family home: many don't consider what is to happen to the mortgage, or take into account tax considerations.

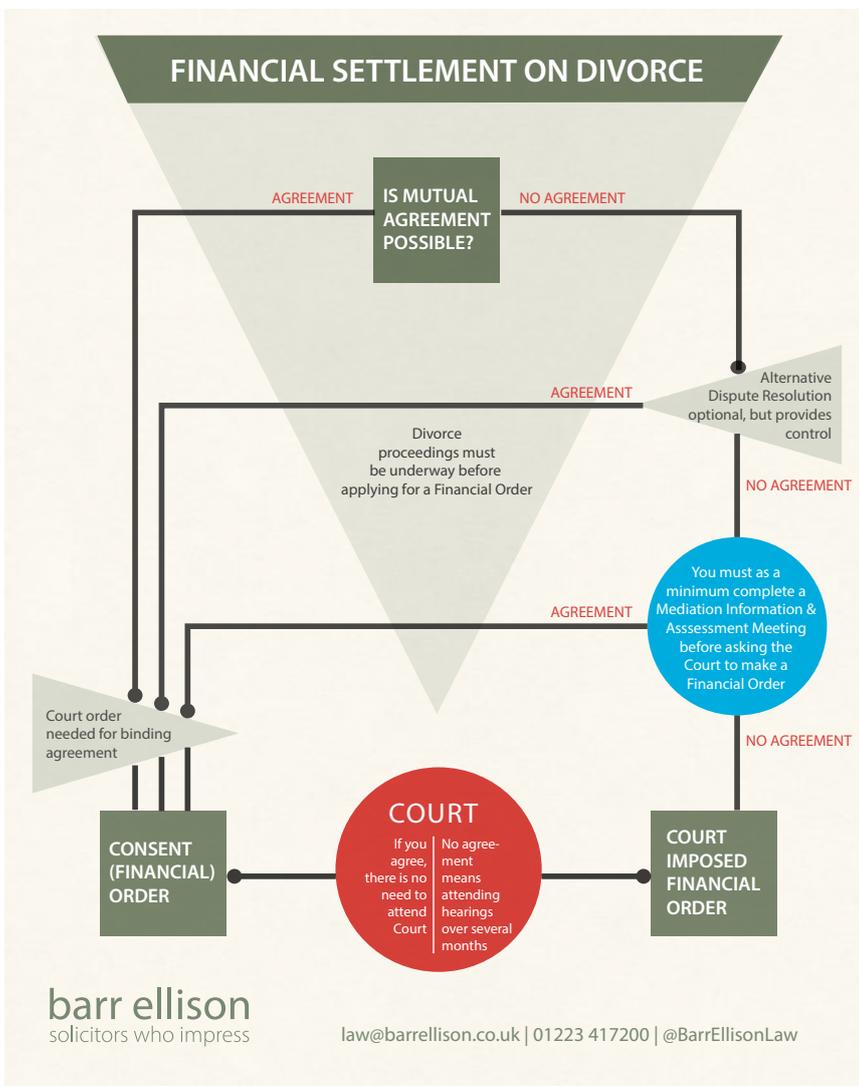
Where you agree

In the event that you agree how to split assets and share liabilities, you should obtain a Court Order (known as a Consent Order) reflecting the terms of your agreement in order to make it legally binding. It is important that you understand that an agreement between you is not enough to bring an end to any future financial claims. Only when there is a Court Order reflecting the agreed terms does it become binding on you both.

We would be happy to assist you in drafting a Court Order to reflect the terms of your agreement.

Getting help to agree

Direct discussions may not be an option for you, but there are other options for trying to reach an agreement on financial arrangements. There are



the Consent (Financial) Order if they consider it to be fair.

If the agreement is reached through mediation or a collaborative process, a document will be drawn up to reflect what has been agreed, but that then does need to be put into a court order.

Mediation Information Assessment Meeting

If agreement is not possible, the next step is to issue an application to the court, asking the court to decide the division of assets and income. Before you can start court proceedings for a Financial Order, you must attend a Mediation Assessment Information Meeting (MIAM) (there are a few exceptions to this rule).

Court proceedings where parties are not in agreement

Once an application is made to court requesting a decision on financial provision, the court will set a timetable for you both to comply with, including providing your financial information and completing further documentation.

a number of Alternative Dispute Resolution (ADR) options including mediation, collaboration and solicitor-led negotiations. If agreement is reached through ADR discussions, then it must be put into a court-approved financial order to be binding.

Application for a court order where parties are in agreement

Divorce proceedings must have been started and reached the decree nisi stage (but do not have to be completed) before the court can consider any application for an agreed Financial Order.

There is usually no need to attend Court; this is simply a paperwork exercise. A Judge will approve

There are usually a total of three separate court hearings. The third is known as the Final Hearing at which the Court will decide upon the final division and what is to happen to each asset.

The court will encourage you both to try to reach an agreement. Even though court proceedings have started, the opportunity to negotiate a settlement between you is not lost.

If the application goes all the way to the Final Hearing, the court will impose a financial order upon you both, and with which you both will be required to comply.

Call 01223 417200 to make a fixed fee family appointment. A lawyer will explain the options open to you and the likely outcomes.

Visit our Family & Divorce InfoHub at barrellison.co.uk/family/InfoHub for information on divorce, finances and other family topics.