

Financial negotiations and proceedings relating to divorce are referred to by lawyers as *ancillary relief*. We try our hardest to keep negotiations as amicable as possible, with a view to achieving a result by consent. Both parties are encouraged by lawyers and Judges alike, to negotiate cost-effective solutions which reflect their needs and priorities, in a way that is fair to those individuals.

Section 25 of the Matrimonial Causes Act 1973 and the Civil Partnership Act 2004 outlines a set of criteria the Judge has to take into account when deciding what is, in fact, fair. In summary form, the Court takes into consideration:

- The income, earning capacity, property and other financial resources which each spouse has or is likely to have in the foreseeable future
- The financial needs, obligations and responsibilities that each spouse has or is likely to have in the foreseeable future
- The standard of living enjoyed by the family before the breakdown of the marriage
- The ages of each spouse and the duration of the marriage
- Any physical or mental disability of each spouse
- The contributions which each spouse has made or is likely to make
- The conduct of each spouse, if it is inequitable to disregard it
- The value to each spouse of any benefit which one spouse, because of the divorce, will lose the chance of acquiring (most usually this refers to pension provisions).

In reaching a negotiated financial agreement, both parties must be open and honest about their financial circumstances, and provide documentary evidence that reflect their financial situation. This is known as *disclosure*.



If an agreement can be reached between the parties on the basis of full disclosure, then this will be transposed into a draft Consent Order. This draft Consent Order is then sent to the District Judge following the pronouncement of the Decree Nisi. The Judge will consider whether the financial agreement reached is fair to both parties, and if satisfied, will make the Order.

If an agreement cannot be reached by negotiation, then it is open to either party to make an application for the Court to decide the issues. Issuing an application for ancillary relief triggers a Court imposed timetable, the first stage of which requires each party to complete a lengthy sworn statement setting out their financial position.

After full disclosure of each of the parties' finances an information hearing takes place by the Judge with a view to identifying the issues in the case. If no agreement is possible another hearing takes place approximately 8 to 12 weeks later known as a *financial dispute resolution*. Both parties again focus their energies upon settling the case by way of compromise, with active intervention from the Judge. Only if no agreement is achieved then the matter is ultimately listed for a final hearing. The matter will be decided by a

different Judge from the one who dealt with the financial dispute resolution hearing. After hearing full evidence of both parties and their respective witnesses the Judge reaches a decision. If the matter does progress to a final hearing, the Judge will strive to achieve a fair result. In all cases, this leads the Court into meeting the needs of the children and the parties, for as long as there are sufficient resources to meet those needs.

The Court has very wide powers to deal with finance and property. It can make any of the following Orders:

- Maintenance (i.e. income payments)
- Adjustment of property ownership (for example the transfer of a house from joint ownership to the sole ownership of one spouse)
- The payment of a lump sum
- A payment from a pension.

## Buckles Solicitors LLP – key contacts

Buckles Solicitors LLP has a strong Family Law Department with in-depth experience of dealing with the breakdown of family relationships, whether in marriage, cohabitation or civil partnership, whether or not children are involved.

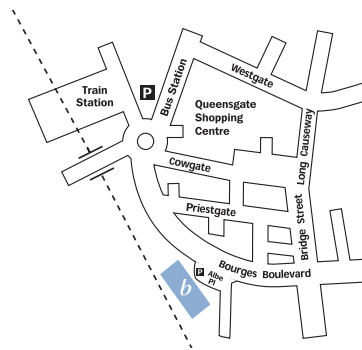
We tailor solutions to the needs of each client offering a bespoke service based on an individual's circumstances, and understand the related practical issues, such as how to separate, where to live, the arrangements for any children, and money or property matters.

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