

A Short Guide to Ancillary Relief

Invariably the most contentious aspect of any breakdown in a relationship revolves around property and the family finances.

Every effort is normally made to try and assist clients in reaching a negotiated settlement to avoid the necessity of Court Proceedings. If however agreement cannot be reached then an application for what is known as "Ancillary Relief" is made to the Court and the Judge will be invited to consider what would be a fair distribution of the assets as between the parties. The application to the Court asks the Judge to make one or more of the following:-

- a. An Order for Maintenance Pending Suit.
- b. A Property Adjustment Order invariably relating to the matrimonial home or other properties owned by the parties.
- c. A Periodical Payment (Maintenance) Order for the spouse.
- d. A Lump Sum (Capital) Order.
- e. A Pension Sharing Order or a Pension Attachment Order.

The Court can in certain circumstances make an Order for maintenance for the child/ren however this is normally only likely to happen where both parents agree the level of maintenance to be paid otherwise the question of maintenance for child/ren is dealt with by the Child Support Agency.

The Court has to consider various matters including all of the circumstances of the case, giving first consideration to the welfare of any child/ren of the family under the age of 18. The Court in particular has regard to the following:-

- a. The income, earning capacity, property and other financial resources which each spouse has or is likely to have in the foreseeable future.

- b. The financial needs, obligations and responsibilities which each spouse has or is likely to have in the foreseeable future.
- c. The standard of living enjoyed by the family before the breakdown of the marriage.
- d. The age of each spouse and the duration of the marriage.
- e. Any physical or mental disability of each spouse.
- f. The contributions which each spouse has made or is likely to make in the foreseeable future to the welfare of the family including any contribution by looking after the home or caring for the family.
- g. The conduct of each spouse, if that conduct is such that it would be in the opinion of the Court inequitable to disregard.
- h. The value to each spouse of any benefit which one spouse because of the divorce will lose the chance of acquiring (most usually pension provision).

Once proceedings are issued the Court will require both parties to provide full details of their financial and general circumstances together with supporting documentation to corroborate their evidence. This evidence is contained within a document known as a "Form E". The Form E is filed with the Court and a copy sent to the other spouse. Both parties then attend Court on what is known as the "First Appointment" when a Judge will decide what further evidence is necessary in order to clarify both party's respective claims. The Judge will then list the matter for a further appointment called a "Financial Dispute Resolution Appointment". Both parties then attend this appointment with their legal advisors and a Judge will be allocated to the case to assist the parties in trying to reach an agreement to avoid the necessity of a Final Contested Hearing. If agreement is reached then the Judge will invariably make an Order at the Financial Dispute Resolution Hearing which brings the matter to an end. If agreement cannot be reached then the Judge will list the matter for a Final Hearing when evidence will be given by both parties and a Judge will decide how the matrimonial assets should be divided between parties.

Please contact Nick Johns if you require any further assistance or information. He will be happy to discuss matters with you and give you an idea as to the costs involved in relation to Ancillary Relief Proceedings.