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Options at a glance

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Outside the Court arena, there are various options available to separating parties including a negotiated settlement either directly between parties or advocates, collaborative law, arbitration or mediation.

As a preliminary to any negotiated settlement, each party needs to provide disclosure of their assets, income and debts. The law provides a framework within which the parties can exchange all relevant financial information and documentation. This can be done either on a voluntary basis or by Court order if one party is not prepared to co-operate.

Once full disclosure has been provided, then it is open to either party to put forward proposals for settlement dealing with division of all the assets, including child and possibly spousal maintenance. If agreement can be reached at this stage, it is essential that the settlement is incorporated into a binding Court order. If there are no divorce proceedings pending, then this will take the form of a Judicial Separation. If a divorce petition has been issued, then the agreed terms are incorporated into a Consent Order. Either way, the Court will need to approve the order to ensure it is enforceable.

If the other party is not prepared to provide voluntary disclosure or agree a fair settlement, then the only option is to pursue a financial application before the Court which will decide the division of assets.

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