

Judicial separation

December 2020

If married parties are able to reach an agreement with regard to all aspects of financial settlement and arrangements for the children, then this can be recorded in a binding Court order. This is called a Judicial Separation by Consent, and is usually referred to just as a Judicial Separation or a legal separation. Such orders should not be confused with a Decree of Judicial Separation which is totally different.

Once the terms of the order are agreed, then this is presented to the Court for approval together with a summary of assets and income. Both parties are required to attend Court, together with their advocates, for a short hearing to confirm that each party understands the terms of the agreement and that they are giving valid consent to the proposed order. The parties will also need to confirm at the hearing that there is no prospect of a reconciliation.

Judicial Separations by Consent are very common in Guernsey. They are unique to the island and present a quick and cost effective way of securing an agreement in relation to children and finances. Clearly, a Judicial Separation can only be made where everything is agreed. If not, then the only option is to pursue the case before the Court, see Flow chart of a financial application.

Judicial Separations are relatively straightforward and are particularly useful in cases where the parties wish to separate on entirely amicable terms. If there is a good way to separate, then Judicial Separation by Consent is the best way.

Following a Judicial Separation, the parties are regarded as being legally separated but are not divorced, see Divorce - the basics.