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How to reach a financial settlement when divorcing or separating in Guernsey

MAY 2021

For most people contemplating divorce and separation, the prospect of going to Court and asking the Judge to make an order about children and finances can be very expensive and stressful.

So what other ways are available to enable separating parties to try and resolve their differences away from the Court?

There are several options:

1. A negotiated settlement via advocates

This is perhaps the most common method to try and reach settlement of all financial and custody issues.

Before you open negotiations, you need to know where you stand, the options available to you and where you might end up if you litigate before the Court.

In any negotiations relating to finance, there will need to be disclosure of each party's income and capital assets to the other party. The disclosure stage itself can be complex especially where the assets are difficult to value, for example if a family business is involved. However, the need for full disclosure cannot be emphasised enough. Clearly, you cannot negotiate a settlement of the assets if you do not know how big the cake is in the first place.

Disclosure is usually done by the exchange of Financial Statements (Form A). This is a 26 page questionnaire listing income, assets and liabilities.

In cases involving very simple assets, on occasion, it may be possible to try and short circuit the disclosure process by exchanging a summary of assets and basic documentation.

Once this information has been exchanged then negotiations can begin. This can be done via correspondence or by one or more round table meetings. If agreement is reached then the terms will need to be secured in a Court Order either by way of a Judicial Separation by consent (if there are no divorce proceedings) or by a Consent Order if a Final Order of divorce has been granted.

2. Direct Negotiation between the parties

In some circumstances, it is possible to negotiate directly with your spouse in relation to finances and children.

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In other cases direct negotiations are simply not possible.

In every case, it is essential that you receive expert legal advice before you try to reach an agreement. This is because before you can enter into constructive negotiations you need to know where you stand and the options available. You will also need to exchange information relating to each party's income, assets and liabilities.

If you are intending to negotiate directly with your spouse, an initial meeting with us will provide you with all the information you will need to discuss an amicable settlement.

3. The court process

All of the methods referred to above, if they are to be successful, require both parties to commit to try to reach an amicable settlement. If either is not prepared to negotiate then the only real option available is via the Court process. See Finances – An Overview of the Court Process, How the Court decides Who gets What, Children – An Overview of the Court Process and Children - Orders Available.

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