



Family, Divorce & Relationships

INFORMATION SHEET

Protecting Your Finances Pre-Divorce/Dissolution



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This leaflet is for information purposes only and contains general information in relation to Protecting Your Finances Pre-Divorce/Dissolution. The specifics of your situation will be discussed with you during your appointments and in individual correspondence.



Protecting Your Finances Pre-Divorce/Dissolution

There are some practical steps you should consider taking prior to the completion of your divorce to protect you and your future. How necessary each of these steps is depends on you and your personal circumstances but below we outline some of the legal options you may wish to consider.

1. Is the property you occupy owned by your spouse?

If the marital home is in your spouse's sole name you have no automatic legal rights over it. If you are living there, you might want to protect your Right of Occupation by registering what is called a 'caution': this will prevent your spouse from selling or mortgaging the property without your consent.

If you are no longer living in the property, you need to consider registering either a restriction or unilateral notice, or possibly both, as well as the caution. We can, of course, help you with this and it is important you take some advice otherwise your spouse can sell or mortgage the property without your agreement.

2. Do you and your spouse own your home together?

Adverse credit rating and repossession.

Regardless of whether you still live at the property or not, if your name is on the mortgage you have a legal obligation to ensure the mortgage is paid. Failure to do so will affect the credit ratings of both of you, which could create problems in securing a mortgage, or any other type of credit, in the future. You also risk the property being repossessed by the lender if mortgage payments are consistently unpaid.

Notice of Severance

Death is a subject nobody likes to talk about but it is something that needs to be considered, particularly when going through a divorce. You need to think about what will happen to your property if either of you die.

If you own any property or land together with your spouse, it is more than likely that you own the property as joint tenants. This means that there is a 'Right of Survivorship' between you. As joint tenants, if either of you die, the property would automatically pass into the sole name of the survivor. This is irrespective of any Will you may have and will still happen even if you are divorced, if the property remains in joint names.

If you wish to prevent this from happening, you can serve a Notice of Severance on your spouse and this will ensure that your half share of the property will not pass under the Right of Survivorship. However, if you do not make a Will, your interest in the property will still pass to your spouse, as they are your next of kin until you are divorced, and it is therefore important that you also consider having a Will prepared. You can find more information about writing a will on our website: <http://www.grindeys.co.uk/services-for-you/wills-trusts-probate/writing-a-will>

If you have life insurance cover in place, the mortgage is likely to be paid off if one of you die, so this is a considerable gain for the surviving spouse, which might lead to your intended beneficiaries losing out.

3. Do you and your partner have joint bank accounts and / or credit cards?

Banks Accounts

Either person whose name is on a joint account can withdraw some or even all the money from a joint account at any time, even take the account overdrawn. Whilst this is something the Court would see as being inappropriate, if you are the victim of this, this will not help you address the immediate problems this might cause, and the bank may try to recover any overdraft from you and not your spouse. It may be that you could discuss transferring this account into either of your sole names or agreeing to close the account. If your spouse will not co-operate with this, you might want to speak to your bank about freezing the account. This has implications on any salary payments into the account and payments made from the account, so you might want to take advice before you take this step.

Credit Cards

If your spouse is the holder of an additional credit card on your account, if they use the card, they are spending your money. You might, therefore, want to look at discussing this with your spouse and, if you are unable to agree to reasonable use (dependent on your circumstances), then you might want to consider cancelling this card. This may have ramifications on the overall settlement, so you might want to contact us to discuss this first.

4. Do you and your spouse have children together?

Divorce is particularly difficult when there are children involved. We always encourage clients to try and keep the discussions and actions around children as amicable as possible, but we also know this is not always possible.

Try to keep a diary of all events regarding your children. Include details of dates and times of contact and any issues that arise during these times. Detail any money that has been exchanged for the benefit of the children and list any gifts or items that were purchased. A clear account of matters regarding your children can aid negotiations when it comes to the financial settlement and arrangements for the care of your children.

5. Are you are currently living in the marital property as a single person either with or without children.

You may be entitled to a 25% reduction in your council tax if your spouse has left the property. You should contact your local authority's council tax office to enquire about this.

If you have dependent children and are living as a single parent you may be entitled to certain benefits including Child Tax Credits and/or Working Tax Credits. For more information on tax credits and to find out if you could be entitled please visit <https://www.gov.uk/browse/benefits/tax-credits>

You may also be entitled to child maintenance from the non-resident parent of the children. For more information on making a claim for child maintenance visit the Child Maintenance Service website at <https://www.cmoptions.org/>.

You can calculate how much maintenance you may be entitled to or have to pay on: <https://www.gov.uk/calculate-your-child-maintenance>. You do not have to wait until you are divorced to receive child maintenance.

6. Are you worried your spouse will sell property before a settlement is agreed?

If you are worried your spouse may sell or give away assets to prevent them being taken into account in any financial settlement, the Court can make an order to prevent this. If you are concerned about this, you should consider acting promptly and we can, of course, help you with this.

7. In the event of your death would you prefer for all your worldly possessions to go to your friends and family rather than your 'soon to be ex-spouse? Yes, please tell me more

Until the court approves your divorce and issues the decree nisi your partner is still legally your next of kin and therefore, if no Will is in place to indicate otherwise, your next of kin will inherit all your property and possessions in the event of your death.

Of course the likelihood of you dying during the time it takes to agree a financial settlement and complete your divorce is minimal, however just in case...

Besides, you can make a Will that withstands the test of time. Once you are divorced who will inherit everything you own? You need to think about who will inherit your property and personal possessions and, if you have dependent children, who would you like to take care of them.

The only way to ensure your family and friends inherit your property as you wish is to make a Will. You can read more about making a will by visiting our website: <http://www.grindeys.co.uk/services/personal/lifetime-planning-wills-trusts-probate>

8. What else should I do?

Basically, if you can get your financial affairs in order, it will help when assessing the appropriate financial settlement. If you can gather, collate and keep up to date the documentation below, this can go some way to helping you resolve issues quickly, amicably and more cost effectively.

- Last 3 consecutive months wage slips;
- P60 (most recent);
- P11D (most recent);
- Evidence of any other income you receive;
- Evidence of any State Benefits you receive;
- Details of any benefits in kind you receive from your employer;
- 12 months bank and/or building society statements in respect of all accounts held in your sole name or jointly with any other person;
- Estimate of the value of any land or property you own and a copy of any formal valuation, which has been obtained;
- Mortgage redemption statement or most recent annual mortgage statement;
- Surrender value of endowment policies;
- Details of any other policies/life policies you hold either in your sole name or jointly with any other person;
- Cash equivalent transfer value or annual statement, if you receive one, of any pensions, details of the scheme and an illustration of the benefit payment on retirement (you may receive an annual statement with this, if not, we suggest you contact your pension providers to get this information sooner rather than later, as it can take 3 months to produce);
- Evidence of the value of any investments that you hold such as ISA's, bonds, premiums bonds etc.;
- Details of any shareholdings you have;
- Details of any items owned by you, which individually are worth more than £500.00, for example, car, caravan, boat, jewellery etc.
- Business accounts for the last two years including balance sheet;
- Estimate of the current value of your business and any documents in support of that valuation;
- Latest Tax Assessment or letter from your Accountant confirming your tax liability;
- Evidence of any debts you have, for example, loans, credit cards.
- A list of your monthly outgoings
- Details of any child support maintenance calculation;
- Any assets held on your behalf by a third party.

This information will be needed either as part of mediation, for formal disclosure through solicitors (exchanging financial information with your spouse's solicitors) or for the Court process.

Talk to your spouse: if it is safe for you to do so, and you do not feel intimidated by your spouse, it's important to try to keep communication channels open, especially where there are minor children involved. If you can talk on a civil basis, this can help minimise the issues between you, which may well help keep both of your legal costs down.

Seek advice: it's important you understand your rights and obligations and we can help with that. We will not place you under any pressure to take formal legal steps before you are ready, as we understand this is a momentous issue, but it will help you to understand your legal position, even if you chose to sort things out between yourselves.

If you wish to arrange an appointment, you can speak to us either by phone or in person. We offer two options for your initial appointment:

30-minute consultation

This will provide you with a good overview of the divorce process, a better understanding of your legal situation and advice on the best way forward.

The cost of this session is £50, but you'll receive a £50 credit towards your costs if you go on to formally instruct us.

Detailed one-hour consultation

This is more in-depth than the 30-minute consultation and is more appropriate if you're facing complex issues with finance or children, or if you have business interests involved.

We'll provide a bespoke assessment of your situation and provide you with a letter of advice outlining everything discussed during the meeting.

The cost of this session is £200, but you'll receive a £100 credit towards your costs if you go on to formally instruct us.