



Divorce: Splitting the Money

By Sarah Beskine

I am a partner and divorce lawyer, mediator and collaborative lawyer at Hopkin Murray Beskine www.hmbsolicitors.co.uk. This piece is about what the court takes into account when splitting finances in divorce. All negotiations are informed by this so however you are settling, it is vital to know how the court views your dispute.

As an accredited specialist in financial matters in divorce, family issues and children, much of my work is in this field.

The court's power is wide: to change ownership of property, transfer assets and pensions, or fix levels of maintenance. The power to do this comes from issuing a divorce petition in the UK or, with the court's permission, a foreign divorce.

Firstly, both of you give full financial information so everybody knows what's "on the table". Then the court expects you to set to work to settle, with the benefit of the court's guidance. If you can't, the court will make a final order.

The court tries to split assets equally. However, if this won't meet everybody's needs then the split is based on need. In middle or low income families the aim is to provide a home and income for the partner with care of the children, plus a home and sufficient income for the other spouse. Priority is given to the partner with care of the children. The other party may have a deferred share, often when the youngest child reaches a level of independence. With wealthier families where there is sufficient to comfortably meet all the needs of both spouses, the task is how to divide the remainder.

Is property 'matrimonial' or 'non-matrimonial'? Non matrimonial property can include property

inherited or brought into the marriage by one partner only, or assets generated mainly or solely by the unusual or great efforts of one party. The court is more likely to move away from the ideal of an equal split with non-matrimonial property.

The court considers the financial needs, obligation and responsibilities of spouses, your health, age and the standard of living in the marriage. The court is not happy for the parties to have very different standards of living after divorce. It is relevant if one of you is nearing retirement but the other has many years to invest in a pension. In the past, the court gave more credit to the spouse who produced the income and wealth in the family. Now the court recognises that contribution to a marriage is also the contribution to family life – bringing up the children, running the home. It is only rarely that the court looks at conduct. The court has to consider whether it is appropriate to have a settlement which ends all financial ties, known as a clean break. If there are children of school age it is unlikely that a court would think that a clean break was appropriate, although this varies in different areas of the country.

If you have any specific queries on this or any other aspect of marriage or divorce law or mediation please feel free to email me at reception@hmbsolicitors.co.uk.

In next month's article I will talk about how you can protect property if you fear your spouse might deliberately hide it or spend it.

Hopkin Murray Beskine
www.hmbsolicitors.co.uk

Please see inside front cover for further details