

Withholding information in Divorce settlements

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What happens if your ex is deliberately dishonest about the family finances in a divorce? Anyone who has ever gone through a divorce will remember you have to tell each other everything about finances, called "full and frank disclosure". Only then can you fairly judge how to split assets. If one party's need is much greater they may need a greater share. It can be equalised in the future, eg when children leave and the home can be sold.

Whether you are trying to sort out your finances through the Court, through solicitor's negotiations, or face to face, the principles remain the same. You cannot reach a fair agreement if you do not have an accurate view of the finances of the other person.

The Courts recently looked at a couple of cases where the husbands had deliberately withheld information to mislead. The agreements reached and approved by the court would have been different had the women known the truth. It's very unusual to re-open an agreed order which is why it got such publicity. These agreements were overturned and both wives were awarded more.

If you reach an agreement, to make it binding it needs to be endorsed by the Court. Literally this means the Court reads your agreement plus a summary of your finances. If it turns out later that the summary given by one party was inaccurate to the extent that the court would have thought the

order was not fair, it can re-open the order. Mistakes happen though, and if someone accidentally did not give information, the Court takes a slightly softer view. The order can still be changed and re-drafted but costs might not be ordered against the person who misled. There is likely to be lots of argument in the future about who will have to pay the costs of this kind of application.

The main thing to take from all of this is the court's insistence that you cannot reach a fair negotiation unless everyone's cards are on the table.



Although it can be tempting to shortcut and reach an agreement even if you do not have all the other person's information about their finances (particularly if the more powerful person is pressing you to do this) it is never a good

idea. My suggestion to people who are reaching agreement by themselves is to run it past a solicitor before submitting it to court to make sure that there are no gaps and you have not overlooked something important such as splitting pensions.

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