

Financial claims on divorce and quantifying them

Both spouses have exactly the same financial claims as a result of the marriage which need to be resolved on divorce.

These are:

1. Claims for property - a property can be sold, transferred between spouses or retained until an event in the future.
 2. Claims for income, or maintenance as it is commonly known - maintenance can be payable both for children and to a former spouse if they are unable to support themselves
 3. Claims for lump sum payments - typically lump sum payments can be made to buy a former spouse out of a property or business.
 4. Claims in respect of pensions - pensions are a complex area of law and the importance of a fair distribution of any pensions is fundamental where significant pension funds are involved. It will generally be necessary to consider pension values and expert advice from an actuary. This is a costly but important aspect of financial resolution.
- The standard of living enjoyed by the family before the breakdown of the marriage.
 - The age of each party and the duration of the marriage.
 - Any physical or mental disability of either of the parties to the marriage.
 - The contributions which each of the parties has made or is likely to make in the foreseeable future to the welfare of the family, including contributions in looking after the home or family.
 - The conduct of each of the parties, if that conduct is so bad that it would be unfair to disregard it. It is rare for conduct to be relevant
 - The value of any benefit which a party will lose by reason of the divorce e.g. pension.
 - Although you and your spouse may have decided to resolve your financial claims outside of court, your lawyers will have these factors in mind when advising you on settlement options, and considering what is fair and appropriate in your circumstances.

It is the duty of the Court when determining financial claims to consider all the circumstances of the case, the first consideration being given to the welfare of any children of the family under the age of eighteen. In addition, Section 25 (2) of the Matrimonial Causes Act 1973 sets out specific points which must be considered in every case, namely:

- The income, earnings capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would, in the opinion of the Court, be reasonable to expect a party to take steps to acquire.
- The financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future.

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For further information, please contact our family team on 0118 977 4045.



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