

Who will get what?

When a married couple separates and commences divorce proceedings there are a variety of factors, which need to be taken into consideration in order to achieve a suitable financial settlement for all concerned. The final agreement reached will depend on the unique circumstances of each case.

The parties to the marriage are encouraged to try to reach a satisfactory solution between them. However before any agreement is legally enforceable it has to be submitted to the Court for approval. Where parties cannot agree a settlement between themselves an application can be taken out at Court for a Judge to decide on a fair distribution of the parties' assets and whether or not there will be a continuing obligation on one party to maintain the other. The parties to the marriage are required to provide full and frank disclosure of all of their financial circumstances, including income, outgoings, capital assets and liabilities. Capital assets come in many forms and include savings, investments, shares, insurance policies, pensions and interests in properties and businesses.

What does the court take into account when making a decision?

When determining what is a fair distribution of the parties' finances the Court gives first consideration to the welfare of any children under the age of 18, then all of the circumstances of the case, including:

- The income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future
- The financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future
- 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 have made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family
- The conduct of each of the parties, if sufficiently serious that the Court ought to take it into consideration
- The value to each of the parties to the marriage of any benefit which, by reason of the dissolution of the marriage, that party will lose the chance or acquiring in the future

What sort of orders can the court make?

There is a range of Orders available to the Court. These include ordering a property to be sold and directing how the proceeds should be divided, transferring the ownership of properties, ordering a party to pay the other a cash lump sum and ordering a party to pay maintenance to the other on a regular basis for a definite or indefinite period of time.

What about pensions?

The Court has the power to order the trustees of a pension scheme to split a pension, which will effectively mean that part will be given to the non-member spouse to create a separate pension fund of their own. Sometimes it is preferable to offset a pension entitlement, which means you receive more of other assets in return for not claiming a share of your spouse's pension.



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