

Success Starts Here Free Information Guide

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Family Law



After a relationship breakdown in a marriage or a civil partnership, there may be outstanding issues regarding finances and/or the children of the family. For example, what should happen to the home that you share or any savings that you may have? How much time should the children spend with each spouse/civil partner after separation?

A formal way of recognising agreements is to put the terms of the agreement into a document called a consent order.

What is a consent order?

A consent order is a formal recognition by the court of an agreement between you and your spouse/civil partner. Preferably, it should be drafted or considered by solicitors following settlement of your matter. Settlement can be reached by mediation, collaborative law, negotiation through solicitors, or an agreement reached after court proceedings are issued.

A consent order can deal with all aspects of your finances like pensions, savings or property that you may have. It can also deal with the amount and manner of maintenance to be paid to one spouse/civil partner and/or for the children. If agreements are not embodied into a consent order, they may not be absolutely binding on the court, although in certain cases can be highly persuasive.

Usually in children matters, a consent order can only be obtained to settle any issues in dispute if contested court proceedings have been issued, for example, if you or your spouse/civil partner have made an application to a court for a contact order or residence order.

The process of agreeing a consent order in financial matters

The first step is usually for both parties to gather and disclose all respective financial information.

Following financial disclosure, in order to come to your agreed consent order, you can attend mediation or come to an agreement through collaborative law. An agreement can also be reached through correspondence between you and your spouse via solicitors. Once your agreement has been reached, it will be put into legal language that is recognised by the courts and signed by you and your spouse.

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This is then sent to the court along with a summary of both parties' financial circumstances so that your agreement can be considered and ultimately approved by a judge. In this instance usually neither you nor your spouse/civil partner would be required to attend court.

The court does not simply rubber stamp agreements. Before the consent order is made, the judge has to be satisfied that it is appropriate and a fair and reasonable order to make. It is more likely that the judge will approve the order when both parties have had independent legal advice and assistance.

A consent order is an order of the court. If you or your spouse/civil partner do not keep to the agreement either of you can apply to the court to enforce the order.

If however an agreement cannot be reached between you and your spouse/civil partner, one of you will need to make an application to court for a financial order. The court will set a hearing date which you will need to attend. Before the hearing, you will need to provide the court and your spouse/civil partner with certain information including your full and frank financial disclosure. There are several stages and hearings in financial court proceedings before a contested trial takes place. You and your spouse/civil partner can agree a consent order at any time before the contested trial takes place.

The advantages of a consent order to you

- It can avoid costly, lengthy and often stressful court proceedings.
- Provides you and your spouse with certainty and security in relation to your future financial positions.
- The consent order is an agreement that you are happy with rather than having terms imposed on you by a judge at a contested trial.

What should I do now?

If you want to take the first steps in resolving your financial issues after a relationship breakdown, or if you would like more detailed advice, please contact our Family Law Department.

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