

THE FINANCIAL ASPECTS OF DIVORCE AND JUDICIAL SEPARATION (PROTECTING YOUR POSITION AND DISPOSAL OF PROPERTY AND ASSETS)

PROTECTING YOUR POSITION

- i. How can I protect my interest in the former matrimonial home which is in the sole name of my spouse?

If the former matrimonial home is in the sole name of your spouse we can protect your interest by registering it at the Land Registry. This will prevent your spouse from dealing with the property, for example, selling it or taking out a mortgage on it without your consent.

- ii. Jointly owned property.

If you and your spouse own property in joint names then you will probably own it as joint tenants. This means that if one of you died your share would automatically pass to the other regardless of any wish expressed in a Will. To avoid this happening you can sever the joint tenancy which involves serving a Notice on your spouse and a Notice is then sent to the Land Registry.

- iii. Council Tax Liability

If you have moved out of the former matrimonial home you should notify the Local Authority to ensure that you cannot be liable to pay Council Tax on the Property.

- iv. Joint Bank/Building Society accounts.

If you have a joint account into which your wages are paid you will probably want to make arrangements to have the money paid into an account in your own name so that your spouse cannot withdraw it. If there are any joint savings then you will need to consider whether they should be frozen until an agreement or Order has been reached and if you do want them frozen you will need to speak to the Bank/Building Society. You may want to consider making any joint accounts into joint signatory accounts so that your spouse cannot withdraw money without your signature.

- v. Making a Will

If you do not have a valid Will when you die, the bulk of your assets will pass to your spouse on your death under the Intestacy rules. You may not want this to happen. You should make a will to ensure that your assets pass in accordance with your wishes.

I AM WORRIED MY SPOUSE WILL DISPOSE OF ASSETS/PROPERTY

If you suspect that your spouse is going to dispose of or deal with property/assets with the intention of defeating your claim and there is some evidence to support this then we can ask the Court to make an Injunction Order to prevent them from doing so. You need to let us know immediately if you suspect that your spouse is

going to dispose of assets to frustrate your financial claim.

WHAT IF PROPERTY/ASSETS HAVE ALREADY BEEN DISPOSED OF?

If your spouse has already disposed of property/assets and we can show the Court that it was done so with the intention of defeating your financial claim and that the outcome of your case would be different if your spouse had not disposed of the property/assets the Court can make an Order setting the disposal aside unless:-

- i. The disposal was for valuable consideration other than marriage and;
- ii. It was to a person who, at the time of the disposal, acted in good faith and without notice of any intention to defeat your claim.

We can talk about this further if it is relevant to your case.

The family department are

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Disposal of Assets

Justice is not **black**
or

white It's Gray