



Consent orders

Online divorce

The official online divorce service “Get a Divorce” makes matters more accessible for litigants ending their marriage. Some people divorce without using a solicitor and do not realise all the implications of the process. Many do not appreciate that finalising the divorce with decree absolute, the final order, may deprive them of receiving death in service benefits from their former spouse, for example.

“It’s Over”

There is a misconception that a divorce resolves a couple’s financial and property matters. Divorce and financial relief are two very separate processes. Divorcing does not prevent financial claims being made, rather, it *enables* them to be made and the court has power to make orders once decree nisi has been pronounced.

The only way to prevent future claims is to have them dismissed. This is normally brought about by filing at court a draft consent order setting out the agreement reached between the (former) husband and the (former) wife. Such a consent order can offer a “clean break” if that is the appropriate outcome. This protects any money you may earn or assets you may receive in the future from claims from your ex-spouse.

What is a consent order?

A consent order simply means an agreed order but it is an important, technical legal document upon which each party should get independent legal advice from a specialist family lawyer.

Typically consent orders are made up of three sections: recitals, undertakings and orders. Recitals set out what the parties have agreed. Undertakings are enforceable promises made to the court which, if breached, are punishable by a fine or even imprisonment. Orders are the operative part of the document dealing with financial and property matters together with pensions. Crucially and perhaps most importantly orders can include a dismissal of claims.

A consent order enshrines a legally binding open agreement between the parties. It is important to have mutual full and frank financial disclosure before negotiating any financial settlement. The court can only consider a draft consent order if it is accompanied by a D81 form, a statement of information, setting out the income, capital and pension provision of each spouse. Each party must sign a statement of truth confirming that the contents of the D81 are true.

Obtaining the order

Once signed by the parties and their solicitors, the consent order and D81 are uploaded to the court's online portal. A fee of £53 is payable which is normally shared between the parties. It can then take some four to six weeks for the court to consider the draft order. A judge must actively exercise their discretion to ascertain if the agreement is fair and reasonable: it is not a rubber-stamping exercise.

What happens next?

Once approved the order must be implemented. It may provide for the sale of a property and division of net proceeds of sale. If there is a pension sharing order it must be served, complete with pension annexes and decree absolute, on the appropriate pension institution which is allowed up to four months to implement the order.

The remarriage trap

It is imperative that an application for financial relief is made before remarriage. This is because if no such application is made before marrying again the party is statute-barred from ever resolving original financial and property matters.

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Our key contacts at DMP for further advice and assistance on divorce finances are Stephanie

Alderwick and Tony Roe:

stephanie.alderwick@dexamontague.co.uk

tony.roe@dexamontague.co.uk

Telephone 0118 939399

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