



# CONCLUDING FINANCIAL CLAIMS

**I**t may come as a surprise to many that completing a divorce does not automatically bring financial claims between spouses to an end. The divorce itself is capable of dissolving one's marriage such that the parties are both able to go on and get re-married if they wish. However, the conclusion of the divorce does not, by itself, bring to an end the financial claims which the parties have against each other by virtue of their marriage.

**For background, the financial claims available to spouses as a result of their marriage include claims against:**

1. Property and capital, including savings and investments
2. Pensions
3. Incomes
4. Claims against the other's estate on death.

Often, spouses who have separated or have agreed to separate will come to an informal arrangement regarding the division of their financial assets and, occasionally, their incomes. The difficulty, however, is that if these arrangements remain informal then they are unlikely to be enforceable through the Court or binding on either party. That is unless the terms of such an agreement are recorded in a formal document which, as part of a divorce, can be considered and approved by the Court to make it final. It should also be noted that it is only a Court approved agreement or final order of the Court which will allow for pension assets to be divided between the parties.

For those who are about to embark on, or perhaps have already concluded, a divorce, it is almost always advisable for financial claims to be settled (and this can be done long after the divorce has been concluded). Such financial claims can be settled so that they become fully effective and enforceable by doing one of the following:

Reaching an agreement with your (ex-)wife or husband which is then recorded in writing (in a



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Consent Order) and approved by the Court;

Obtaining a final order from the Court, which is made after a financial application has been submitted to, and dealt with by, the Court.

If no Consent Order or final financial order exists at the conclusion of a divorce, then it is highly likely that financial claims between the spouses remain live, even many years after the divorce is completed. As a result, this could mean that either party is able to pursue financial claims against their former spouse many years into the future and they may also be able to pursue claims against the other party's estate on death. In order to avoid this scenario, it is only a Consent Order approved by the Court or a final order of the Court that can fully dismiss these financial claims in life and in death so as to offer certainty to the parties for the future. ■

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If you, or someone you know, have yet to deal with the financial aspects of your divorce (which may be on-going or already have been concluded), then we would recommend that you, or they, seek legal advice as soon as possible. If you would benefit from such specialist advice then remember that K J Smith are the only niche family law firm offering advice right across the Thames Valley from our newest office in Abingdon, to our original office in Henley and across our other offices in London, Woodley, Windsor, Beaconsfield, Basingstoke and Guildford too. We also offer a free 45-minute consultation with a specialist family lawyer – this gives us an opportunity to give you the important initial advice but it also gives you the chance to meet our team and decide if we are the right fit for you.

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