

## DEALING WITH DIVORCE



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The breakdown of a relationship can cause considerable emotional distress and upset. Dealing with a separation can often add to an already stressful situation. Quite often there are a number of different issues that need to be addressed and it is my job to guide you through this legal and financial mind field. I hold a legal surgery every month at the North Yorkshire Federation Office or alternatively a telephone appointment can be arranged if preferred. Your first appointment is free, thereafter police officers and police staff receive a 20% reduction on my normal hourly rate.

Here is an example of questions asked and an outline of the advice given.

**Q Is my spouse entitled to any of my police pension?**

**A** The Court will consider any asset that has accrued during your marriage and as such your pension will be taken into account when deciding on the division of the finances as you have been contributing to it while you were married. The extent of your spouses claim against your police pension will depend on several factors such as how long you have been married and the value of your spouses' own pension provision. A relatively short childless marriage is likely to result in you keeping your pension in tact, but a longer marriage either with or without children is likely to have an impact on your pension.

There are however likely to be a number of options as to how your pension is dealt with. The options that are most likely to be available are an offset whereby your spouse receives a greater share of the realisable capital assets which quite often is the matrimonial home. Alternatively your pension may be subject to a pension share. This results in a percentage of your pension being transferred into a pension for your spouse. After implementation of a pension share your spouse's pension has to remain in the police scheme and your spouse will not receive any benefits from any ongoing contributions that you make.

**Q Do I have to continue to pay the mortgage even though I am no longer living in the matrimonial home?**

**A** If you and your spouse are named on the mortgage deeds then you are both joint and severally liable for the mortgage payment. This means that if the mortgage is not paid both of your credit ratings are likely to be affected.

The amount of any ongoing contribution by the party who no longer resides at the property will depend on the circumstances of the parties. The starting point would be for any child maintenance to be paid. It is then for the spouse that continues to occupy the matrimonial home to prove that

they are not in a position to be able to afford all of their essential outgoings on the income that they have (to include any child maintenance or benefits that they receive). If they are unable to meet the outgoings then consideration will be given to the other party's income and their essential outgoings. If they have any surplus income then it is likely that they will be required to pay a contribution to the other party. In summary if the party who remains in the matrimonial home cannot manage to "keep the ship afloat" without assistance from the other party then they are likely to need to assist. If the parties are unable to agree the level of contributions themselves then provided that divorce proceedings have been issued an application can be made to Court for Maintenance Pending Suit.

**Q My spouse has had an affair. Will that be taken into account when dealing with the divorce and finances?**

A The reason for the breakdown of the marriage is not a factor that the Court will take into account when addressing financial matters. The Court will however consider the conduct of the parties however this needs to be extreme conduct in order for this to be considered and as such is rarely a consideration.

The fact of adultery can however be relied upon in divorce proceedings and it may be that your spouse is ordered to pay your divorce costs due to the fact of their adultery.

**Q We have a joint account should I take steps to close the account?**

A Leaving an account in joint names would rely on an element of trust between you. Either of you may be able to withdraw funds or run up an overdraft on the account. As the account is in joint names both of you would be joint and severally liable. It is therefore likely to be advisable to open your own bank account and have a separate account for the payment of bills etc. This not only enables you and your spouse to be independent from each other but can help reduce the risk of future conflict. Even though you have opened your own bank account you are likely to be required to provide copies of your statements as part of your disclosure. That is even if the account is opened with a new partner!

It is essential that you get the right advice from the start. At Russell Jones & Walker we specialise in police divorces and have the knowledge to advise you thoroughly on your relationship disputes. For further advice please contact me at the office on **0161 383 3643** or the Federation Office directly to make an appointment to see me at the next surgery.