



Why Every Divorcing/Separating Couple Should Have A "Clean Break Order"

A decree Absolute is only half a story.

Whilst you may have managed to agree matters with your husband or wife and know exactly how you want to divide your matrimonial assets, it is a very risky strategy to assume that your ex-partner will always be good on their word or has told you everything you need to know about their finances. You could be missing out on what you are entitled to, such as pension provision, spousal maintenance or business-related payments and you may not be aware of all the options open to you, the long-term implications of your choices or the tax consequences of your arrangements.

Verbal statements are unlikely to be upheld in Court and an informal arrangement between yourselves may not work to your advantage. That is why if you are separating or divorcing, it is vital that any financial agreement reached is properly considered and recorded in a court order or a deed of separation.

Without finalising matters through the Court, there is nothing to stop your ex-partner pursuing you one year, two years or even decades down the line.

Take the recent court case of **Wyatt v Vince** which illustrates the dangers of failing to obtain a court order dismissing financial claims on divorce therefore allowing either ex-partner to come back later years later for a second bite of the cherry. In this case, more than 20 years after the decree Absolute.

Ms Wyatt and Mr Vince were married in 1984. They had one child together but had few assets at the time of their separation and divorce. They therefore did not worry about finalising their financial settlement in a court order.

However, 27 years later Mr Vince is a self-made millionaire having built up his own company with a multi-million-pound

turnover. After lengthy litigation, Ms Wyatt received a settlement of £300,000 and £325,000 towards her legal costs. Considering his own legal costs, this was a very expensive lesson for Mr Vince; it could have cost him just a few hundred pounds to have all existing and future financial claims dismissed by the court at the time of the divorce.

This case reinforces how important it is to file a 'Clean Break Consent Order' - regardless of what assets you may have at the time of separation as failure to do so can result in both parties at risk of having to financially support an ex-spouse indefinitely. The decree Absolute does Not automatically dismiss financial claims.

So, whilst agreeing a financial settlement is one element of separating unless you enter into a formal agreement (known as a Consent Order) and get a Clean Break Order which needs to be approved by the court your ex-partner could make a claim for a share of the others' assets, property, income or pensions in the future.

The Clean Break Consent Order sets out the financial agreement reached between the parties and dismisses existing and future financial claims the parties may have in relation to their marriage.

Put simply, without a Clean Break Order in place, if you win the lottery, receive a substantial inheritance or just get a better paid job and start earning more, your ex- spouse might be able to claim a share of your new-found wealth.

Call Sarah Hull a family solicitor consultant on 0113 200 9745 for a FREE initial chat.