Ex-Spouse Coming Back to Haunt You? Make Sure You Make a Clean Break!

This spooky season, we're here to share cautionary tales about the importance of getting a financial settlement after divorce and the horrors that may lie in wait if you decide not to...

When you and your spouse/civil partner are going through a divorce or dissolution, your financial claims against each other become live. From this point, the divorce process and the financial process run separately to each other although they are connected.

This means that you could receive your Decree Absolute and become legally divorced, however, unless you obtain a court order approving a financial settlement between yourselves then the financial claims against each other will remain live. Remarrying can limit a person's claims against their ex-spouse.

Even if you dealt with the divorce process and have reached an informal agreement between yourselves to divide the assets a particular way or to not pay anything at all to each other – unless that agreement is formalised into a sealed court order, then your ex-partner can try to take another slice of the pumpkin pie in the future.

This is because where financial claims remain live, any assets accrued following the divorce may also form part of a divorce financial settlement, regardless of how many years have passed since your divorce. How terrifying!

A financial settlement can deal with the division of assets acquired pre-marriage, during the marriage period and post-marriage such as:

- Family home;
- Any additional properties, (jointly or solely owned);
- Savings, shares, ISAs etc;
- Chattels such as cars or artwork;

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- Businesses and business assets;
- Pensions (including pension contributions pre and post-divorce);
- An inheritance or anticipated inheritance; and
- Income acquired from salaried employment, self-employment or alternative sources such as rental income.

Don't let your spouse's live financial claims haunt you down the line. As there is no time limit on financial claims, there's nothing scarier than the thought of your ex-spouse lurking in the shadows for years after your divorce, ready to jump out at any moment to bring their financial claim against you.

To prevent this from happening, and to keep those ghosts at bay, the key is to obtain a court order which sets out how your financial claims are going to be dealt with now. This order would be a full and final settlement of your financial claims against each other. Where there is no spousal maintenance payable, these types of orders are known as a 'clean break'.

Even if you have previously entered into a pre-nuptial agreement, you will still need a court order to finalise your financial settlement on divorce to close your financial claims against each other. You can view more information on the weight that the courts give to pre & postnuptial agreements here.

The court order can be obtained by parties agreeing to a financial settlement to be drafted into a Consent Order and signed by both parties. The consent order is then sent to the court to be approved and become a legally binding order.

If parties are unable to agree on the financial settlement between themselves then they can apply to the court to issue financial remedy proceedings whereby if at the end of the court process the parties still cannot reach an agreement then the court will impose a financial remedy order on the parties in full and final settlement of their financial claims. You can view more information on the financial remedy court process here.

If you've divorced, or are in the process of divorcing, from your ex-partner and have not reached a formalised financial settlement, then we'd highly recommend that you dust off those cobwebs and get in touch today for some advice on your matter. Our team of family solicitors are available to assist you to obtain a legally binding financial settlement on divorce or dissolution.

If you'd to get in touch to discuss your matter further then please feel free to contact us on 0344 967 0793 or email online.enquires@la-law.com.

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