



A Consent Order (CO) is document that sets out the agreement that two parties to the divorce have reached regarding a division of the assets of the marriage which, when approved by both of you, will be signed by you both and submitted to the Court.

This document is normally drafted towards the latter stages of the divorce proceedings and is filed at Court either at the same time as the pronouncement of the Decree Nisi or following the pronouncement of the Decree Absolute. It draws a line under the financial aspects of your marriage, and neither of you, after this document has been approved by the Court, can return to the Court for any further negotiations on financial provision generally.

Until all financial claims have been dismissed by the Court, theoretically there exists the possibility that your spouse/ex spouse could make an application at a future date for a financial settlement against you. The chances of this step being taken would increase if your financial situation improved markedly or the other party's diminished.

If your ex spouse does not agree to all financial claims being dismissed by a clean break Consent Order then only the Court has the power to dismiss future claims by you seeking a formal Court order in those terms.

Public Funding (formerly known as Legal Aid) will rarely be available for you to obtain a financial order dismissing claims, which would mean you would either have to seek such an order yourself, or instruct us privately to do so on your behalf, paying our fees at an estimated cost of £300.00 plus VAT plus a court fee. Normally however if in receipt of Legal Help a CO will usually be put in place following an agreed financial settlement. It follows that there would have been full financial disclosure before a CO is entered into. Each party normally exchanges significant financial information addressing pension details, salary, outstanding mortgage payments plus savings or investments as may be appropriate.

It may well be the case that your ex spouse does not seek a financial order against you in the future or your respective financial positions do not change dramatically. It is also true to say that usually the longer your ex spouse leaves such a claim the less likely it will be that the Court will view it sympathetically. However a safer and more prudent course of action is to dismiss financial claims to achieve certainty and give you peace of mind.

The Consent Order comprises of clauses, which are referred to as “recitals” and these set out the basis upon which the order is being entered into and what steps have been taken to date by agreement.

The second part of the Order sets out what is to occur financially in the future and will provide for a dismissal of future claims against the other . A common order is, for example, where a lump sum of money is ordered and will be dependent on the receiving party transferring all of their interest in the former matrimonial home to the paying party.

When a clean break Consent Order is submitted to the Court it has to be accompanied by a document referred to as a "Statement of Information for a Consent Order – Form M1". This is the document that the District Judge will consider when looking at the order with a view to checking that it is in all the circumstances, fair and reasonable. It is only in rare circumstances that the District Judge will refuse to make the consent order sought but sometimes this will occur and the Judge will require further clarification or explanation as to why the proposed order is felt to be appropriate. This can usually be dealt with by a letter of explanation by both parties or through their brief attendance before the court.

It is vitally important that the information contained in the Statement of Information document is absolutely accurate since if either party is found to have left anything out on the document in terms of their financial standing then the aggrieved party could reopen the order with punitive orders being made against the guilty party.

*Dunn & Baker – Here to help you*

*Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Dunn and Baker will be responsible only for advice specifically given to you.*