

How finances are dealt with on Divorce

1. The starting point is s.25 Matrimonial Causes Act 1973 which requires that the following guidelines should be taken into account:
 - The interests of any minor child of the family are of paramount importance;
 - The financial resources which either party has or is likely to have in the foreseeable future;
 - The needs, obligations and responsibilities of the parties;
 - The standard of living enjoyed by the parties;
 - The ages of the parties and the duration of the marriage;
 - Any physical or mental disability of either party;
 - The contributions which either party has made or is likely to make;
 - The conduct of the parties; and
 - The value of any benefit that either party will lose as a result of the marriage being dissolved.
2. Subject to the interests of any minor child the “needs” of the parties will take priority
3. Fairness is the objective
4. The court takes into account both parties financial needs and financial resources. If financial needs are met the court will look to divide assets equally unless there is good reason to depart from equality
5. Contributions and conduct are only taken into account if it is unfair to ignore them
6. The source of the assets is relevant and pre-marital assets, post-marital assets and inheritance are treated differently to assets built up during the marriage, provided those assets are not required to meet needs
7. A pre-nuptial agreement may be relevant, if obtained prior to a marriage, and may provide that the sharing principle will not apply
8. The date at which assets are valued is the date of agreement or trial
9. In assessing whether there should be departure from equality the following will be considered:
 - The choices made by the parties prior to separation as to the way in which they ran their married lives, i.e. were assets shared?
 - Whether either party had substantial assets prior to the marriage
 - The acquisition of assets after separation
10. The ultimate objective is to give each party an equal start on the road to independent living
11. There should be no discrimination between the roles within marriage i.e. the contributions of the “breadwinner” and the “homemaker” will be treated equally

12. The court will consider each case on its own individual facts