

Glossary of terms

A

Advocate

A lawyer, either a solicitor or barrister, who speaks on your behalf in court.

Applicant

The person who makes an application either in relation to children matters, financial matters or injunction proceedings.

Adultery

Sexual intercourse of a penetrative nature with another person of the opposite sex whilst married.

Absolute

The final decree in divorce proceedings which leaves you free to remarry

B

Behaviour

The most common ground for divorce or civil partnership dissolution is to allege that your partner has behaved in a way which you find unreasonable.

Barrister

A lawyer who has proven skills in advocacy, who may represent you in court if there is a dispute about money or children. The barrister will also provide you with specialist advice in relation to legal aspects of your case.

C

CAFCASS

A Court Welfare Officer who may be appointed by the Court to help the Judge carry out enquiries if there are Children proceedings.

Child Support

The Child Support Agency/CMAC ie government bodies currently responsible for the collection and payment of child maintenance.

Chambers

An office within the court building, but also used as a term to describe a barrister's office.

Child Arrangement Orders

For orders introduced by the Child Arrangements programme 2014 governing where children will live and how much time they will spend with each parent. Child Arrangement Orders replace orders for contact and/or residence.

Clean Break

An order made during/following divorce proceedings bringing financial claims between spouses to an end.

Counsel

A barrister.

County Court

A civil court which deals with most aspects of finances and children following separation/divorce. The court also deals with other civil claims such as those arising from road traffic accidents and recovery of debts.

Corroboration

Evidence, either written or oral, which supports what you say.

Civil Partnership

A legal union between same sex partners.

D

Divorce

A legal process which ends your contract of marriage.

Deed of Separation

A contract, usually drawn up by a solicitor, which records an agreement reached in respect of financial matters following separation.

District Judge

Usually either a senior solicitor, or barrister, who has been evaluated by the Judicial Appointments Commission as not only having sufficient technical expertise, but an ability to deliver fairness with a degree of professional integrity. Most issues relating to a divorce e.g. money and children, are decided by a District Judge if there is a dispute.

Dissolution

A legal process which ends your contract of civil partnership.

Desertion

A ground for divorce e.g. If your husband or wife leaves to work overseas for over two years ,never returns and does not provide financial support.

E

Form E

A lengthy pre-printed form which you will have to complete if there are financial proceedings.

F

Family Proceedings Court

The family section of the Magistrates Court where family cases are heard by a bench of Magistrates supported by a Legal Adviser.

Finances

Can be sorted out by agreement, or by Order of the Court upon application, but will not automatically be dealt with by the court.

Financial Remedy Proceedings

Financial proceedings relating to property, money and pensions within divorce, civil partnership and dissolution or Judicial separation.

FDR

A Financial Dispute Resolution hearing relates to finances and takes place during Financial Remedy Proceedings and in the parties are encouraged by the court to come to an agreement.

Finding of Fact

A hearing when the court decides whether or not certain facts are proven on the balance of probabilities e.g. whether or not domestic violence has occurred.

Freezing Order

A layman's term for an Injunction Order made pursuant to S37 Matrimonial Causes Act 1973. It will stop a party from disposing of money or assets pending a final decision being made by the court about distribution of that money or assets

G**Guardian ad Litem**

An experienced social worker appointed by the court who usually has a legal representative, and provides a court with the views of a child.

Gillick competent

A term used to refer to a child being of sufficient age, understanding and maturity to give the court their own views, and to act independently of any adult – typically a teenager over the age of 13/14.

H**I****Injunction**

An Order of the Court preventing someone from doing something eg. disposing of assets, being violent or threatening.

J**Judicial Separation**

A legal process whereby you remain man and wife, but separated. The advantage of this is that you can apply to the court for orders about financial matters if you cannot agree

K**L****Legal Aid**

A type of funding which may be available if you are in receipt of benefits, or on a really low income. Legal Aid is now only available for Family Mediation and private Family Law cases where there is serious domestic violence and/or Child protection issues.

M**Matrimonial home**

The term used to describe the house that you lived in whilst married.

N**Nullity**

Court proceedings to end your contract of marriage as a void, or voidable marriage e.g. failure to consummate marriage.

Nisi

Decree Nisi is a certificate which is issued by the court half way through your divorce. One of the parties can then later apply for a decree absolute which will formally end the marriage.

O**Occupation Order**

An Order of the Court granting you the right to occupy a property to the exclusion of your husband or wife.

Oath

To take the oath means to swear to the truth of what is written by you, or said by you, on either the bible or other religious book of your faith i.e. "I swear by Almighty God that this is my name and handwriting and the contents of this statement are true".

P

Prohibited Steps

An Order of the Court preventing you from doing something in relation to a child eg. taking a child abroad.

Property Adjustment Orders

Orders governing the transfer and/or sale of property within divorce/associated financial remedy proceedings and/or civil partnership proceedings consequent upon the breakdown of civil partnership.

Pre-Nuptial Agreement

A contract entered into in contemplation of marriage, usually to regulate division of money and assets in the event of later separation or divorce.

Post Nuptial Agreement

A contract entered into following marriage to regulate division of money and assets in the event of a later separation or divorce.

Pension Sharing Order

A type of financial order made by the court which shares your pension fund.

Petitioner

The person who issues divorce proceedings.

Q

R

Respondent

The person who responds to proceedings issued at court.

S

Spouse

Your husband or your wife

Spousal Maintenance

A regular payment of money paid by one spouse or former spouse to the other following the breakdown of marriage. Payments can be ordered by the Court and orders can be paid for a definite term or under a joint lives order. The joint lives comes to an end on either the recipient's remarriage, the death of either party or further order.

Separation

If you physically separate from one another. Agreements in relation to finances are sometimes recorded in a deed of separation.

S25 criteria

A reference to s25 Matrimonial Causes Act 1973 which sets out a list of things that a District Judge must consider when making decisions about financial cases.

T**TOLATA**

If you are not married, but have lived together, then you may have a claim against property that you have lived in, even if it is not in your name, if you have contributed financially to that property in some way. This is a TOLATA claim – a claim under the Trust of Land and Appointment of Trustees Act.

Trial

A hearing in court where parties and witnesses give evidence, are cross examined, and the judge or District Judge makes a decision.

U**Undertaking**

A promise to the court to do, or not to do something which is enforceable by way of a fine or ultimately a committal to prison.

V**W****Without Prejudice**

If correspondence is marked “without prejudice”, then generally speaking, it means that it cannot be produced in court. There are some exceptions to this.

X**Xydhias**

An agreement in relation to financial matters reached during the course of negotiations, which cannot be reneged upon.

Y**Z**