

# Wollen Michelmore

SOLICITORS

## WHY FINANCIAL CERTAINTY IS KEY WHEN CONSIDERING DIVORCE

*Meet Gemma Stevens who has recently joined our family team in the Newton Abbot office for Wollen Michelmore. Gemma deals with many varied aspects of family law, including divorce and financial settlement.*

A recent Judgement published by the Court of Appeal, illustrates an important issue for separating couples, and one which is often overlooked - the need to consider the financial claims arising out of marriage, not just the legal process of divorce.

So often couples will either not be aware of the need to consider this matter, put it on a 'to do' list for later or in an attempt to reduce costs or argument between them verbally agree with their former spouse to divide assets up without having the agreement recorded anywhere in writing or approved by the court. This last example was illustrated by Mr and Mrs Briers, in the recent Court of Appeal Judgment.

The parties in question married in 1984, separating in 2002, some eighteen years later. The final Decree of divorce was pronounced in 2005.

Mr Briers had a successful business which flourished in the years after separation. Mr Briers claimed that the parties discussed financial arrangements and reached a verbal agreement about their assets and claimed that upon separating, the parties agreed terms upon which the assets would be divided and what provision should be made for Mrs Briers. Mr Briers claimed that an agreement was drawn up but never signed and so this was never presented to the Court or approved by a Judge. Mr Briers claimed that substantial provision was made for Mrs Briers on the back of their verbal agreement and to all intents and purposes, he believed that the matter was done and dusted.

Later, however, Mrs Briers issued Court proceedings to seek further provision from Mr Briers to meet her needs. Three Appeal Court Judges have now unanimously ruled that the 'agreement' could not be relied on and Mr Briers has been ordered to pay a further lump sum to his former wife. The Court went on to make further provision for her, by way of a Pension Sharing Order, so that part of Mr Briers pension shall be allocated to her to produce a pension income for her in the future.

Gemma explains that this case illustrates the risks of not dealing with financial matters when pursuing divorce proceedings. If parties are to achieve finality, they should ensure

that there is a written agreement in the form of a Consent Order reflecting the agreement that they have reached. Such a Consent Order is advised to be prepared by a solicitor for one of the parties but both should obtain independent legal advice about the terms as they can have long term consequences for both parties. The parties should ensure there is full and frank financial disclosure between them, of all the assets, to ensure any agreement has been arrived at in a fair way.

Even if you do not own any property now, or have savings, investments or pensions to consider there may still be the need to have regard to the potential for claims in the future, which if not properly addressed now, can result in a claim by a former spouse many years down the line.....don't make the same mistakes that Mr Briers did.

To discuss this article or any other aspect of family law, please contact, Gemma Stevens on 01626 33226 or email [Gemma.Stevens@wollenmichelmores.co.uk](mailto:Gemma.Stevens@wollenmichelmores.co.uk)