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Separation agreements

What is it?

A separation agreement is not a divorce. It is a written agreement between a couple who intend to stop living together but are either not ready for a divorce or do not currently have grounds for a divorce.

What's in it?

The separation agreement sets out how the couple wish to deal with financial, property and parental responsibilities. Each agreement is tailored to the needs of each couple but will probably deal with the following matters:

- the agreement to live apart, free from interference from the other spouse.
- property and finances. How the property and finances (including mortgages and debts) are to be divided between the parties.
- maintenance (financial support) payments from one spouse to the other and/or children.
- living and contact arrangement for children.

Why should I have one?

The separation agreement is a very flexible arrangement which provides a good framework for both parties to work with: it acts as a tool to help them think through both the immediate and future implications of the separation. Also, if things become less amicable later on, it serves to remind them what was agreed at the outset.

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If a divorce is later sought then the separation agreement can be submitted as evidence of financial arrangements etc... Whilst the court has the authority to overturn the agreement, it is unlikely to do so if it can be shown to be working and not unfair on either party. If uncontested, the separation agreement can therefore help to reduce the time and costs involved in the divorce.

The court is not involved in the preparation of the separation agreement. It is not a court order and is only enforceable as a contract between the two parties. As such it is very important that it is properly written otherwise it may not prove to be legally binding. For further advice on separation agreements or to have one drawn up by one of our specialist family law solicitors please contact Tony, Rachel or Anne or visit www.gardandco.com.

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