

Chapter 11: Guidance on answering the self-test questions

Question 1: Matthew (aged 48) and Jilly (aged 49) have been married for 28 years and have three grown-up children. Matthew works as an accountant in a large firm and earns £250,000 per year. Jilly gave up work as a stockbroker when the first child of the marriage was born and has looked after the children and the home since then. The couple have a large comfortable home, which has been valued at £1,500,000 and is mortgage free. Matthew has a pension with a value of £250,000. The couple has some stocks and shares, which since the credit crunch have decreased in value to around £18,000. There are no other significant assets as the couple admit that they have generally lived well, had many foreign holidays, and paid for their children to be educated privately. The couple divorce following Matthew's adultery. Apply the s25 MCA 1973 factors to their case and draw some conclusions about how the court may divide the assets.

Firstly, the court will consider whether there are any children as this is the court's first consideration. Here the children of the marriage are aged over 18 and so will not be considered by the court.

The court will consider s25 MCA 1973:

Financial resources: the parties have a large property with no mortgage, giving capital of £1.5m. There are stocks and shares of £18,000. The other large asset is the pension with a CETV value of £250,000. Matthew's income is large at £250,000 per year and there seems to be no reason to doubt this will change. Jilly has not worked for some time and so does not appear to have an immediate ability to earn an income.

There appears to be no indication that there is non-matrimonial property and all assets are available to the court.

Needs: both parties will require a home and an income. Neither party should be restricted to their needs alone as the parties have a high level of assets.

Standard of living: the parties' standard of living was very good. Should there be a drop in the standard of living, the court will ensure that this is felt equally by both parties.

Age of parties/duration of marriage: the parties are middle aged but with some years of working life left and the possibility of forming new relationships. The court will look towards each party becoming independent. The marriage is long and so the parties' finances have become intertwined.

Neither party has any mental or physical disability.

The contributions made by the parties can be considered to be equal. Jilly has looked after the family and home at the expense of her career whilst Matthew has contributed financially. Both types of contributions are considered to be equal.

There is no relevant conduct to consider.

The court must consider a clean break although they are not obliged to order one.