



A survival guide to

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# Sorting out your finances when you get divorced

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## Contents

|  |    |
|--|----|
| About this guide                             | 3  |
| What you need to sort out                    | 8  |
| Ways of sorting out your finances            | 10 |
| What to do if or when you reach an agreement | 14 |
| What the law says                            | 16 |
| A fair outcome                               | 23 |
| Assets                                       | 26 |
| Income                                       | 38 |
| Pensions                                     | 49 |
| What does it mean?                           | 50 |
| More help and advice                         | 51 |

# About this guide

**This guide is for people who want to sort out their finances themselves when they get divorced. Perhaps because they don't want to have to go to court or are worried about how much it will cost if they ask a lawyer to help from start to finish. Most people in this situation don't know what would be the fair thing to do. What they do know is that they don't want to get less or pay more than a judge would order.**

It doesn't matter whether you are trying to negotiate directly with your ex, going to family mediation or preparing for court – you need to understand what a judge might do in a case like yours so you know more about:

- what is fair for you to agree to, and
- what is fair for you to suggest to your ex.



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## This guide is for you if:

- you live in England or Wales, **and**
- you are or were married or in a civil partnership, **and**
- you are or have been involved in divorce proceedings or proceedings to end a civil partnership, or are likely to be, **and**
- you and your ex are trying to agree how you will share out what you own between you, including any family home.

It is also for people supporting others in this situation, for example, Support Through Court volunteers, CAB volunteers, housing support workers and advice workers as well as relatives and friends.

## This guide is **not** for you if:

- you live outside England and Wales
- or**
- you have been living with someone (cohabiting) but are not married to them or in a civil partnership.

This is because the law for couples who live together without being married or in a civil partnership is completely different. You can find more information about what the law says about couples in this situation by looking at our [Living together](#) page.

## How to use the links in this guide

If you are reading a digital version of this guide you can simply click on the links in the text to get to other useful websites. These links are underlined and coloured light blue. If you are reading a printed version of the guide, we tell you which words you need to search for online so that the website should be the first one to come up in the list of results. If the link is just to a name of an organisation for example, the 'Family Mediation Council' you just need to use the name to search online.

This is just one of our useful resources about family law problems. You may find some of these helpful too:

[A survival guide to family mediation](#)

[A survival guide to divorce or the dissolution of a civil partnership](#)

[How to get a divorce or end a civil partnership without a lawyer](#)

[A survival guide to sorting out child arrangements](#)

[How to apply for child arrangements order without a lawyer](#)

[A survival guide to pensions on divorce](#)

## What does this guide do?

- Provides information about financial settlements for couples who are getting divorced or ending a civil partnership.
- Explains what a judge would take into account and weigh up in their mind when making financial orders when you get divorced.
- Aims to help you understand more about what a judge might do in a case like yours, so that you have a better chance of making a fair agreement with your ex.

Everything in this guide applies equally whether you were married or in a civil partnership.

We try to explain any legal language as we go along, but for more help you can go to the section called [What does it mean?](#)

It is long, but don't be put off. You could try reading through the whole thing once and then refer back to key headings to find the sections that are most relevant to you.

## What does this guide not do?

We do not explain how to apply to the court for a financial order. If you need to do this we have another guide that explains the process: [How to apply for a financial order without a lawyer](#). We don't include the process of how to get a divorce in this guide. We have two guides on just the divorce part. [A survival guide to divorce or dissolution of a civil partnership](#) helps you to get started. If you decide you want to apply for a divorce you need [How to get a divorce or end a civil partnership without a lawyer](#).

We do not deal in detail with child maintenance. For more information on this topic, search online for '[making a child maintenance agreement](#)'. This will take you to the GOV.UK pages on child maintenance where there is useful information and a calculator to help you work out how much maintenance you should get or need to pay.

If you have what lawyers call a 'high value' case then this guide will be of limited use. 'High value' cases are ones where there are millions of pounds at stake and often complicated business assets ('assets' is the word that lawyers use to talk about things of value, like shares, savings and investments). These cases often raise complex legal issues which we cannot deal with in this guide. You should seek legal advice if you are in this situation.

We also do not deal with other special situations, for example, where:

- there are complex business interests or trusts, or
- someone other than you or your ex (the law calls this person a 'third party') claims that they own all or part of your or your ex's money or property, or
- you made a pre-nuptial agreement about your finances, or
- you are worried about your ex hiding or getting rid of money or property, or
- you are worried your ex may be about to go bankrupt

**In all these situations, get legal advice as quickly as possible.** You may also need to take advice from an accountant about your tax situation. For information about where to find a legal adviser, see the section [More help and advice](#).

## Getting just a little bit of legal help

We know that many people can't afford to pay a solicitor to do everything for them, or want to do as much as possible themselves to save money. But there are times in this process when you will find it really useful to get a bit of expert help from a family solicitor.

To help with this, we have teamed up with [Resolution](#) to provide a panel of family law solicitors that can help you at the most important points of this process for a fixed fee. You will see up front exactly what areas of your case they can advise you on and how much their help will cost you – so that you can be certain you can afford it. Because we know many of our users have limited funds, we have designed a process to make getting this help as cheap as possible for you, by making sure that you use the solicitor's time as efficiently as possible.

We hope that this will take some of the worry and stress out of the process for you.

### How it works

As you go through this guide, you will see various points where we suggest you get some legal advice if you can possibly afford it. At these points you will see this logo. We only do this when we think it will be really useful.

We set out clearly what the solicitor can advise you on and how much it will cost you. There are no hidden extras.



In return, you will use the solicitor's time effectively by:

- 1 Reading the relevant sections of this guide, which will enable you to understand the process and where you are in it.
- 2 Completing the form we send you as fully as possible and send it to the solicitor two working days before your appointment. This will tell the solicitor everything they need to know about your case in order to give you their advice.
- 3 Choosing whether you have an appointment over the phone, by videochat, or face to face.
- 4 Taking notes of the advice given – the solicitor can help make sure you have got all the most important details. Make sure you ask the solicitor to explain anything you don't understand, or repeat anything you need repeating.

**We have kept the cost of advice through this service as low as possible.** If you were to see one of our panel members outside of this service you would pay on average **£295 per hour** (including VAT).

This service is designed to meet the needs of people with low to medium incomes and not many things of value or 'assets'. If you have lots of assets or a high income you can still use the service but you will need more advice than can be given in the appointments described here. Talk to your solicitor about what else you need. This will usually be charged at their normal hourly rate.

Whatever your situation, it is really helpful to get some advice as early on as possible to help you work out where you stand.

All of the solicitors on our panel are members of Resolution. Resolution members are family lawyers committed to helping people resolve their family disputes constructively and in a way that considers the needs of the whole family, and in particular the best interests of your children.

If you decide to get some legal advice from one of our panel members, you will still be in charge of your own case – the lawyer will not be on the court record as acting for you, and their name won't be on any of the paperwork.

We are testing if this approach works, so please [let us know what you think](#). If you use the service, you will be contacted to ask how it worked for you so that we can learn and improve.

If you don't want to use the service, you don't have to. This guide will still be extraordinarily helpful.

About this guide



# What you need to sort out

## What do you need to sort out?

**In the end, most people agree how to share out their money and property when they split up. Very few couples end up going to a final hearing at the family court and having a judge decide the outcome for them.**

There are 5 major things to sort out:

- If you have children, who they are going to live with and where they are going to live.
- How you will each support any children you have.
- Where you will each live.
- What you will each live on.
- How you will share out any savings or pensions and divide responsibility for any debts.

There are no set answers. You have to decide between you (or ask a judge to decide) what will be best for your children and for each of you.

You may find at times that you feel stressed, anxious, disappointed or angry about things not going the way you imagined for your family. If you are going through a break up or you have been through one recently, you are probably going through a very stressful time. It can feel very hard to make any decisions. Be kind to yourself. It will take time to get things sorted out and back on track but you will get there.

Sometimes where you, your ex and your children, if you have children, will live is obvious to you both. But often this is a really hard decision. The most important thing is for you both to be clear that, if you have children, you are making the decision based on what is right for them at this point in their lives, rather than accidentally putting your needs ahead of theirs. If you

would like to know more take a look at [A survival guide to sorting out child arrangements](#). You can find a list of a number of organisations who offer support and help for adults and children when they are dealing with family difficulties.

## Questions to ask yourself

Here are some important questions to think about as preparation for sorting out these issues:

- What income and property do you have?
- What debts do you have?
- If you have any children, how old are they? If the children are independent adults, their financial needs are no longer relevant to the judge's decision.
- How long have you been married?
- Did you live together before marriage, and if so for how long?
- How old are each of you?
- Are you both in paid work?
- If not, could you find paid work?
- How much do you or could you both earn?
- Do either of you or any of your children have a significant health problem which will affect the amount of income or type of property you or they will need?
- What is the cost of renting or buying a home in your area?



## Get some legal advice

If you possibly can afford it, you should to get some legal advice on your options early on to help you work out where you stand.

### Get expert legal advice



for just **£120** on

- ✓ Where you stand legally on the problems that are most worrying you now
- ✓ What the court might recommend in your situation
- ✓ What your next steps should be

**FIND OUT MORE** | >

or go to  
[www.advicenow.org.uk/finances-0](http://www.advicenow.org.uk/finances-0)



# Ways of sorting out your finances

## Ways of sorting out your finances

**Going to court can often cause relationships to be permanently damaged, and leaves the adults involved hurt, stressed, and poorer. You could spend the money you would spend on going to court making your children's lives and your own more comfortable.**

Children can often be upset too, even if you are careful not to involve them directly. So, it is usually best to come to an agreement between yourselves, or using a family mediation service, or a solicitor to negotiate on your behalf. However you do it, you will both need to compromise.

## Option 1:

### ..... Agreeing it yourselves

If you have recently split up or if you have a lot of history together, you will need to find ways to discuss things without all your emotions getting in the way.

Agree in advance with your ex how you will try to come to an agreement. For example, will you find a date to meet on neutral territory, do it over email, or will you use a family mediation service? Nobody likes to feel ambushed and you have a much better chance of agreeing something if you start your discussions feeling that you have both chosen the approach you hope will work for you and you want it to succeed.

If you have a lot to discuss, try to agree what is urgent and deal with that first. You may have different priorities, but dealing first with what is most worrying for each of you can make the other things go much more smoothly.



Before you discuss it, think about what you want to agree. What is best for any children you may have? Then work out what you would like and where you can be flexible. If you know what your ex might feel about your suggestion, think if there's anything you can do to make it more appealing for them.

Try to stick to the point as much as you can. If you are meeting in person, having the main points written down on a piece of paper can be helpful and give you something to focus on if you feel yourself starting to get upset or angry, or if your ex strays from the point. If you try to do it over email, do bear in mind that it is even easier to take offence when you can't see expressions or hear tone of voice, so keeping yourself calm and sticking to the point is even more important.

Listen to any suggestions your ex makes. Even if you can immediately think of 10 reasons why it's a bad idea, resist the impulse to say so. Instead let them see you are giving it some serious thought.

## If there has been domestic abuse or the children have been harmed



If your ex has been abusive to you in the past or is still being abusive think very carefully about whether or not it is safe for you to deal directly with them about your finances or any other issues for that matter. You should avoid agreeing anything important or making big decisions before you get legal advice, so that your ex doesn't bully you into an agreement that may not be a good outcome for you.

If you are on a low income and can get evidence of the abusive nature of your relationship you may be able to get legal aid to cover the costs of a solicitor. Legal aid is help from the Government to pay for legal advice. Search online for '[check if you can get legal aid](#)'. This will take you to the GOV.UK pages on legal aid and a calculator to give you an indication as to whether or not you can get legal aid. We have a short guide on [How to get legal aid for a family problem](#) that tells you what to do next.

Be aware that if you do qualify for legal aid you may be asked to pay a contribution either from your income (on a monthly basis) or from any capital (savings) you may have. Legal aid should be seen as a loan rather than a gift. This means that if you receive legal aid and then at the end of your case you keep or get property or money you will need to pay back your legal aid costs.

If you cannot get legal aid or afford to pay for a family law solicitor, don't give up. It is really important to get some legal advice on your exact situation. There are other places where you can get help on these issues such as [Rights of Women](#) and [RCJ Advice](#) or [law centre clinics](#). For more information go to the section called [More help and advice](#).

## Option 2: Using family mediation

This is where you meet together with your ex and a mediator, who has been properly trained to help you put your feelings aside and focus on the issues that need to be sorted out. The mediator won't take sides or decide what is fair for you – they are simply there to help your discussions.

Many people say that a positive side effect of mediation is that it helps them to communicate again, which can only be a good thing, especially if you have children.

Ways of sorting out your finances

### Do we have to use mediation?

No. You do not have to use mediation to make an agreement. You may be able to reach agreement between yourselves, perhaps having had advice from solicitors. If there was or still is any form of domestic abuse or control in your relationship mediation will probably not be suitable. A mediator can help you work this out, if you are not sure.

However, if you cannot agree and you want the court to decide how to share out your assets, then you will have to attend a Mediation Information and Assessment Meeting (MIAM). This meeting allows you to find out more about how mediation works, including whether it is right for you, how long it is likely to take, and how much it might cost. You can attend this information meeting without having to then go on to use mediation if you don't want to.

In some situations you do not have to attend a Mediation Information and Assessment Meeting, for example, if you have suffered domestic violence or abuse. For more information, see the [Family Mediation Council's](#) website.

When you are looking for a mediator, don't be afraid to phone around and compare prices. (Whilst the fees are usually charged per person, it is open to you and your ex to decide who will actually pay or how to share the cost – for example where one of you has a higher income.)

You can find a family mediator by searching by your postcode on the [Family Mediation Council](#) website. It can be helpful to get a recommendation from someone you trust, such as a family member or friend. If you do follow up a recommendation be sure to check the Family Mediation Council register of mediators first so that you know the person recommended is properly trained and accredited.

If you are entitled to legal aid for mediation then the Mediation Information and Assessment Meeting (MIAM) and any later mediation sessions are free. Legal aid may also be available to pay for you to get some early legal advice to support the mediation process, for example, about what would be fair for you to agree to and then to turn any final proposal into a formal agreement, recognised by the courts. You do **not** need evidence of domestic abuse to get legal aid for mediation.

You can check if you are eligible by using the GOV.UK legal aid calculator – [check if you can get legal aid](#). You will be assessed separately to see if you qualify. If only one of you is eligible, legal aid will still cover the Mediation Information and Assessment Meeting (MIAM) fee for both of you. For more information about how family mediation works, and how to find a good mediator see our guide [A survival guide to family mediation](#).

If you do reach an agreement in mediation with your ex it is a really good idea to get some legal advice on the agreement before you finalise it. This is because the mediator cannot tell you if it is a fair outcome for **you**, according to the law, in the way a family law solicitor can.

### Why you might want to use mediation

Many divorcing couples want to reach agreement but find direct communication with each other very difficult. Mediation can:

- offer a safe, neutral environment in which to talk about what you may be able to agree,
- be less stressful for you and any children;
- be quicker,
- be cheaper,
- help you reach an agreement that you are both able to accept.

## Option 3: ..... Using a solicitor to negotiate for you

Another option is to use a solicitor to negotiate on your behalf. This is likely to be quite a bit more expensive than mediation but may be better if, for example, you are feeling pressured by your ex to settle for something that isn't fair or you think your ex is hiding stuff from you.

Just because you use a solicitor doesn't mean you will inevitably end up in court with all the expense and stress that involves.

Many solicitors offer a fixed fee (or even a free) first appointment. You can use this to get some initial advice and meet the solicitor to see if you feel you will get on with them. They should explain what your options are (including mediation) as well as what and how they charge for their services. You could ask them to limit their charges to a particular sum to start off with, so that when their charges reach that amount you can review your situation and decide whether or not to carry on using their services.

Using a solicitor will be cheaper if you can get legal aid. Find out if you are eligible for legal aid at '[check if you can get legal aid](#)' on the GOV.UK website.

For information about how to find a good family solicitor see the section called [More help and advice](#).

## Option 4: ..... Going to court

You may see starting court proceedings as a hostile step or a last resort but actually it can be a way of kicking off the timetable for sorting things out. The court process is designed to encourage you and your ex to negotiate at each step of the process so that hopefully you can get an agreement set out in a legally binding order before a final contested hearing.

So even if you have to start court proceedings, perhaps because your ex refuses to negotiate with you or to disclose their assets or is not making reasonable proposals in your negotiations or mediation, you may still be able to reach an agreement before a judge decides the case for you.

For information about how to apply for a financial order, see our guide [How to apply for a financial order without a lawyer](#).

### Do we have to go to court?

No. It is usually much better if you can reach an agreement together about how to share your assets, perhaps with the help and advice of solicitors and/or a mediator. Using a solicitor doesn't necessarily mean you have to go to court.

Whichever option or combination of options you end up using to sort out your finances when you get divorced, the aim is to produce a detailed document setting out what you have agreed, that both of you are happy with and that can be turned into a court order.

Ways of  
sorting out  
your  
finances

# What to do if or when you reach an agreement

If or when you make an agreement with your ex about how you are going to sort out your finances when you get divorced, you must turn that agreement into a 'consent order' if you want to be able to enforce it.

What to do if or when you reach an agreement

## Consent orders

A consent order turns an informal agreement into a court order. This means that if necessary the court can make sure that what you have agreed actually happens. Without a consent order (or a final order made by the court after a hearing), it is always possible for either you or your ex to apply to the court for something different to what you originally agreed, even long after you are divorced. This is the case unless one of you remarries.



## Planning to remarry or register a new civil partnership?

- Any maintenance you get for yourself from your ex will stop if you remarry or register a new civil partnership. Maintenance for children is different – this does not stop if you remarry or register a new civil partnership.
- If you have not already applied for financial help for yourself from your ex before you remarry or register a new civil partnership, it is too late! It is best to sort out your finances first, before you remarry or register a new civil partnership, because you cannot apply afterwards (except for certain types of pension orders). At the very least, you must complete your Form A and take it to the court for the court to start proceedings for a financial order before you re-marry or enter into a new civil partnership.

To get a formal agreement – one that is officially recognised by the court – you must get a consent order approved by the court.

If you have agreed that you want to share a pension, then you will always have to get a consent order that includes an order for the pension to be shared because pensions cannot be shared by private agreement. The pension fund manager has to receive an order from the court telling them to share the fund.

So, it is important to put any agreement you reach into a draft consent order for the court to approve if you want to:

- ✓ make your agreement legally binding on both of you,
- ✓ be able to enforce the order, if for example your ex does not do what they agreed to do such as pay you maintenance or a lump sum,
- ✓ bring to an end the right that you both potentially have to apply to the court for financial support far off in the future.

## Getting a consent order

To get a consent order, you must apply to the court. You may be able to get a consent order without having to go along to a court hearing unless the judge wants to be sure that you understand what you are agreeing to. This is more likely to happen if one of you is applying for a consent order without the help of a lawyer.

Drafting a consent order is not an easy task. You may well need some or even a lot of help from a lawyer. The best place to start our guide [How to apply for a financial order without a lawyer](#) as it has more information on consent orders.



It may be that your ex has asked a solicitor to prepare a consent order that sets out what you have agreed or, what your ex believes you have agreed.

A consent order is full of legal terms, which can be confusing and intimidating. There may be parts of the consent order that you don't understand but which could have a real impact on your financial situation in the future.

If you can afford it, it will be very useful to get some legal advice on a draft consent order prepared by your ex's solicitor.

## Get expert legal advice



for just £240 on

- ✓ What the draft consent order you have received means.
- ✓ Why a consent order is important in your case.
- ✓ What other documents need to be completed and the procedure for getting them ready.
- ✓ What happens once everything is agreed between you and your ex.

Please be aware – the solicitor will not be able to tell you if you should accept the settlement set out in the consent order. This is because they would need to see all your and your ex's financial paperwork first to do this. If this is what you would like the solicitor to do you can talk to them about the cost of this work.

**FIND OUT MORE | >**

or go to  
[www.advicenow.org.uk/finances-1](http://www.advicenow.org.uk/finances-1)

What to do if or when you reach an agreement

# What the law says

**If you want to reach a fair agreement which sorts out your finances between yourselves then you need to understand what the law says.**

The law does not set out hard rules or use a mathematical formula to sort out your finances when you get divorced. This is because people's financial situations are so different that it would be very difficult to make rules covering every situation. Instead, a judge has to decide each case after considering its particular circumstances.

But the law does give judges (and you too) some **basic principles** that apply to all cases. If you and your ex try and agree how to share out what you have between you, the court expects you to take these principles into account. And they also apply if you ask a family mediator to help you reach an agreement without going to court.

We explain these basic principles here:

- **The welfare of any child of the family under 18 years old**

This is a very important factor and will be the first thing a court considers. In many cases, it can mean that most, maybe all, of your joint resources should go towards providing a home for your children. Typically the children will live with the person mostly responsible for their day to day care. This is why it is common to come across situations where the person mainly looking after the children stays with them in the family home.

**What if we want our children to share their time equally between us?**

Any plan for fully shared care of children will impact on your financial arrangements. It is only possible where both of you are able to have a large enough home to house you and the children adequately for long periods. That may not be possible in a lot of cases. You need to think about what housing you each will need, how you will pay for it, what the running costs will be and how you will pay for those too.

And you both need to think about how your childcare responsibilities will impact on how much paid work you can do and what you can earn. You may be able to share your childcare responsibilities between you in such a way that allows each of you to work part time. But for many people, this will be unrealistic and will not provide enough income. In which case you each need to think about:

- What childcare arrangements will you put in place to enable you to work to meet your financial needs?
- Will you be able to pay for those childcare arrangements?
- Will one of you need to pay maintenance to the other in order to make fully shared care work?

What the law says



- **The income, earning capacity, property and other financial resources which each of you has or is likely to have in the foreseeable future.**

The likelihood of you or your ex being able to earn your own living in the future or increase your ability to do this (the law calls this ‘earning capacity’) is relevant to what you decide. So, for example, a judge could make a decision based on the expectation that one of you will get a job or a better paid one.

One of you may have a more limited ability to work because of child-care responsibilities. This in turn may reduce that person’s ability to meet their needs from their own resources. This will be relevant when deciding what is fair. Someone in this situation may need more of a couple’s resources following divorce. They may also need their ex to pay them maintenance (if affordable), at least for a period of time.

A judge can also take into account any ‘other financial resources’, including ones that will be available in the foreseeable future. Typically, other financial resources includes any savings or investments each of you may have and pension funds. If a relative has died and you know that you will be receiving an inheritance from them, then that is a resource a judge will take into account. However, a judge will not take into account just the general possibility that one of you might inherit from a relative in years to come.

If you have a new partner, a judge can take their resources into account when deciding how to share out your money and property. So, for example, if you live in accommodation provided by your new partner, this may postpone the time when you get your share of the family home. This is because you do not need it immediately to meet your housing needs. But a judge can’t order your new partner to make any contribution to your ex.



- **The financial needs, obligations and responsibilities which each of you has or is likely to have in the foreseeable future**

‘Needs’ is a very broad concept and includes making sure that both of you have a home and income to cover your daily living costs, both in the short term and often the longer term. For example, it can include making sure you each have a pension for later life.

Needs is not just the minimum required to survive on – it is usually interpreted more generously, taking into account the standard of living you enjoyed during the marriage. So, for example, if you have been enjoying a high or luxurious standard of living for several years, a court may see your needs as greater than the needs of people who have lived more modestly. However, if you have only enjoyed a high standard of living during a relatively short marriage, it may be fair for one or both of you to live more modestly after the divorce.

The main financial need a judge thinks about is housing need. So think about where you will each live following the divorce and how you will pay for it. Ideally you will both end up with a suitable home to live in. But if there is not enough money to go round, the person mainly responsible for looking after any children day to day will get

What the law says

priority. In addition, one of you may need maintenance, at least for a period after the divorce, to pay for accommodation and its running costs.

A judge would also take existing financial obligations into account, for example, to pay child maintenance to children of the family or for other children.

- **The standard of living enjoyed by the family before the breakdown of the marriage or civil partnership**

The standard of living enjoyed during the family before the breakdown of the marriage or civil partnership can be measured by considering things like: What was your average monthly grocery bill? What sort of car (if any) did you have? How often did you go on holiday as a family and where to? How often did you eat out and where? Do your children go to state or private schools?

In most cases neither of you will be able to go on enjoying the same standard of living as you did during the marriage, because your assets and income usually won't stretch that far. Resources that were just enough to support one household will struggle to cover two. In this situation you will both have to change your view about what you need. You may need to find out whether you are eligible for welfare benefits, tax credits and housing benefit or whether any other family member can help. You may end up less well off.

- **Your age and the length of your marriage or civil partnership**

Age can affect what is fair in many ways. It can influence whether you are likely to get work and what your financial position will be when you retire. The length of your marriage or civil partnership can also impact on a judge's decision. If it has been short, then it is less likely that a judge will share out your money and property equally. This is especially true of things that a judge may see as belonging to just one of you, for example, an inheritance or property you brought into the marriage. If you lived together before you married or became civil partners, then a judge may well take this period of time into account.

**Is it relevant that we were living together for several years before we actually got married?**

Potentially, yes. One of the factors the law takes into account in deciding what is fair is the length of your marriage. If you lived together as a couple before marrying, a judge is likely to add that period of time to the length of the actual marriage. They will only do this where the cohabitation was stable and was followed immediately by the marriage.

**What the law says**

- **Any physical or mental disability**

This allows a judge to take into account any physical or mental disability suffered by you or your ex. A judge would want to know about any ill health, long term illness or disability and its impact on you or your ex's earning capacity and housing requirements.



- **Your contribution to the welfare of the family, including any contribution by looking after the home or caring for the family**

The law generally regards each person's contribution to the marriage as equally important, whether you contributed by earning money and acquiring assets, or raising children and looking after the home. So if you were the person who earned all or more of the money you cannot simply say that the other person has little or no claim because he or she didn't bring in any (or much) money or property. If your combined assets are not enough to meet your needs, then generally it won't be possible for either of you to keep an asset out of the pot to share between you, for example, because you inherited it or were given it, or acquired it before the marriage. Even

if the family home was inherited, or bought by one of you before the marriage, a judge will still take it into account if that is what's needed to meet both your needs – as far as is possible.

A judge will also take into account foreseeable future contributions. For example, if one of you is going to be the main carer of the children for a number of years (with the result that your earning capacity will be reduced) that will be a significant factor.

- **Your behaviour, but only if it was so extreme that it would be unfair not to take it into account**

The law says that the fact that one of you may be more responsible for the marriage ending, (for example, because of an affair, bullying or controlling behaviour or a refusal to have sex) is not relevant to the financial arrangements when you get divorced. It is only in very rare cases that a judge would reduce someone's share because of his or her bad behaviour. For example, if your ex attempted to murder you, or caused you severe injury which prevented you from working in the future, a judge could take this into account in their decision. If your ex significantly reduced the amount of money available to share out on divorce, (perhaps because of fraud, reckless spending on expensive luxuries or a gambling problem) then a judge will sometimes try to put the damage right by acting as if the person who spent the money still has it and balancing this in what the other person gets.

What the law says

If you think you want to claim a greater share of your joint assets because of your ex's behaviour, get some legal advice first as claims based on behaviour are not likely to be successful.

### Get expert legal advice



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- ✓ The behaviour of your ex and if the court is likely to take it into account when deciding how to divide up your assets.

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**So even if my ex had an affair or behaved badly in another way, that doesn't make any difference to the settlement?**

That's right. Except in the most extreme cases, a judge will not take account of your ex's bad behaviour or yours, even if it is the reason why you are getting divorced. This is because the judge's focus is going to be on your future needs, rather than allocating blame for what's happened in the past.

- **The value of any benefit which you will lose the chance of acquiring**

This is about things that you are no longer going to benefit from as a result of splitting up, for example, the possibility of getting a lump sum or income from your ex's pension scheme if they die before you.

- **Whether it is fair and reasonable to order a clean break**

A judge also has to think about whether and when it is fair to end your financial responsibilities for each other. The ideal is that you share out your money and property in a way that means you can become financially independent of each other, either straightaway or over time (possibly, several years). The law calls this a 'clean break'. But this is not always possible. It will depend on the circumstances of your case. It is more likely to happen if yours has been a short marriage with no children or you both have well paid jobs. It may not be possible where there are children or the marriage has been long, unless there are enough assets to meet the needs of both of you and any children and you both have enough income to support yourselves.

What the law says

## Can I get a 'clean break'?

That depends on the circumstances of your case. A 'clean break' is where a couple don't (or after a period of time will not) have any continuing financial responsibilities for each other. So no-one has to pay maintenance to the other.

A clean break may not be right for you if you still need some maintenance, perhaps because you won't be able to earn much after the divorce because of your child-care responsibilities. Sometimes a judge orders just a small amount of maintenance, to act as a safety net. Then if your or your ex's circumstances change in the future it is possible to ask for an increase. But in many cases, particularly where there are no children, a clean break may be possible and fair, and may be best for both of you.

A clean break does not end your responsibilities for your children.



## Get expert legal advice



for just £120 on

- ✓ If applying for a clean break consent order is right for you.
- ✓ Whether, in your case, the court might make an order for maintenance to be paid to you or your ex.
- ✓ What would be reasonable to pay or receive in terms of monthly maintenance for you or your ex.
- ✓ What should happen in terms of maintenance payments for your children.

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What the law says

## James and Ash

**This is not a real case. But it shows a typical situation and how a judge might decide to share out the couple's income and assets after divorce. They could be a married couple – the judge would make decisions in the same way. We hope it helps you think about how to deal with your own situation.**

James and Ash are in their early thirties and have been in a civil partnership for six years. They have no children and have been living in a flat that they bought together for £100,000 a year before their civil partnership, with an interest only mortgage of £80,000. The deposit of £20,000 came from James' savings of £5,000 and a £15,000 loan from Ash's father. They have decided to end their civil partnership. Their flat is now worth £125,000. They each work full time. James works as theatre nurse and earns £27,900 a year. Ash now works in IT for a small start up company (and was given a 15% shareholding in the company) and is paid a salary of £22,000 but can receive a discretionary bonus, which last year was £8,000. James has a credit card debt of £3,000, resulting from a holiday that he and Ash took last summer to try and 'mend' their partnership. Ash has been repaying his father the money he and James borrowed to use towards the deposit and still owes him £5,500. James has savings of £900 and Ash has £3,750 left over from last year's bonus. James has his NHS pension which has a cash equivalent value of £28,000. Ash has no pension provision but does own 15% of the company, valued at £19,000.

### Possible outcome

James and Ash will need to sell their flat. Once the mortgage has been paid off and the costs of the sale have been paid, there will be about £41,250 left. James' credit card debt should be paid off since it was taken out for him and Ash to have their holiday. Ash's father should also be repaid as the loan was made for both of them and has been repaid regularly throughout the partnership. That will leave them with £32,750 which they can share equally. This can be used for a deposit if either wants to buy or put in the bank should either decide to rent. Neither James nor Ash will need to pay maintenance to the other. James' monthly take home pay is more than Ash's, but Ash can get a bonus, as he did last year.

Although the values of James' pension and Ash's shareholding are slightly different, given their ages and the difficulty in accessing funds at this stage, James will keep his own pension and Ash will keep his shareholding in the company.

This will be a clean break. Each goes their own way.

What the  
law says

# A fair outcome

**A judge has the power to share out all your property, money, pension and savings (the law calls these things ‘assets’) in a way that is fair to your children, and you and your ex. You need to do the same.**

Your assets include everything that belongs to either of you (not just things in the names of both of you) and things owned or paid for by just one of you (for example, pension savings and future/current pension benefits, personal savings accounts and investments). When you work out how to share what you own, it is essential that you look at the hard figures in detail. It’s only by doing that, that you and your ex will get a real sense of what will and won’t work in your particular situation.

A fair outcome should ideally meet your family’s various needs, in both the short and long term. But, this is only possible if there is enough to go round. Often there is not.

Decisions which you both made during the marriage are likely to influence how things are shared out when you get divorced. For example, if you both decided at the beginning of your marriage that one of you would give up work (or take a part-time job) to stay at home in order to look after your children, it may be much more difficult for that person to pick up the threads of a career or find other employment after many years at home. Sometimes he or she may need to retrain or acquire new skills. The aim in these circumstances is to enable that person to become independent as far as possible. Sometimes, this won’t be possible, especially if one of you is older.

**What if my wife has the higher income or owns more of the assets?**

The law that deals with the financial consequences of divorce is ‘gender neutral’. It does not matter who has been the higher earner or who has done most of the childcare. The same basic principles apply. So, for example, a higher earning wife who has gone out to work full-time could end up maintaining a lower income husband who is the primary carer for the children.



**A fair outcome**

People very often have different views about what is fair. But what counts here is what the law views as fair. We include lots of examples in this guide – typical situations showing how a judge might decide to share out a couple’s income and assets when they get divorced. We hope this shows you what the law views as fair and helps you think about how to deal with your own situation.

If you are being pressurised or bullied into an agreement that does not seem fair to you, or you think your ex is not telling the truth about what money or property they have, get some legal advice. See the section called [More help and advice](#).

### Can't I just leave my marriage with all the property that is in my name?

No. In some cases, it will be appropriate for each of you to walk away with what you own, for example, after a short marriage where both of you are working and financially independent. But in a lot of cases, it will be necessary to share assets regardless of who owns what.

### Isn't it always just equal sharing of everything?

No. In some cases, this is the fair thing to do. For example if you have no children and both of you earn similar amounts, or where there is a lot of money to go round, then a half share will be enough to cover each of your needs.

However, in other cases you may not have enough assets to meet your and your ex's needs. For example, if one of you looks after the children and cannot work full-time, that person may have greater needs than the other and be less able to meet them alone. In these situations, a judge is unlikely just to divide everything 50/50. The judge will focus on meeting each of your needs, giving priority to any children under the age of 18. As a result, one of you may get more than half of the assets to make sure that his or her needs and the needs of the children are met.

## Sharing your assets

If your case goes to court, the first thing a judge does is to review your assets, debts and income to see how much there is to share out. This should be your first step too. You both need to be honest about what you own and what income you have.

In a lot of cases, the family home will be the most important asset. This will almost always be the case regardless of who actually owns the property and/or whether one of you owned and was living in it before the marriage.

Pensions are easy to overlook, but they are very important and are sometimes the most valuable asset in a case. For more information about dealing with pensions when you get divorced, see the section called [Pensions](#).

In cases that go to court, there is a special form (Form E) that you each complete to provide the other with full information about all your income and assets (the law calls this 'disclosure'). This includes disclosing information about assets you may think of as being just 'yours'. You may want to add a comment explaining where a particular asset came from. This form is also useful for couples who have no intention of going to court. It will help you make sure that you provide each other with all the necessary information.

You can find information about how to fill in Form E in another of our guides [How to apply for a financial order without a lawyer](#).

There is also a short film about this on [Advicenow's YouTube channel](#).



A fair outcome



### Can I protect the assets I brought with me into the marriage from claims by my ex?

Maybe, maybe not. It depends on the circumstances of your case. If you and your ex don't have enough assets to pay for what you each need, then you will need to share any assets you owned before the marriage in order to meet those needs.

### Can I protect the assets I was given or inherited during the marriage from claims by my ex?

Again, that depends on the circumstances of your case. If you and your ex don't have enough assets to pay for what you each need, then you will need to share anything you were given or inherited during the marriage in order to meet those needs.

## What a judge can do

A judge has wide powers to move assets around between you. You should think about the orders a judge can make when trying to reach an agreement with your ex, because you can agree similar things. How you share out what you have will partly be a matter of what you both prefer to do in your case in order to meet each other's needs. You may not need to use all the different types of order that are available in your case.

A judge can:

- transfer a particular piece of property (including in some circumstances a rented home) from one or both of you to the other,
- sell a property and split the proceeds from that sale between you,
- allow one of you to live in the family home for a specified period or until a particular event occurs (for example, the children grow up and become independent), after which the house is sold and the proceeds shared out between you,
- require one of you to pay a lump sum of cash to the other,
- share a pension fund or pension payments between you,
- require one of you to make regular payments to the other (usually called 'maintenance'),
- require one of you to pay school fees or other special expenses for the children.

You can find more information about the full range of orders that the court can make in the section **What kinds of financial orders can a court make?** In our guide [How to apply for a financial order without a lawyer](#).

A fair outcome

# Assets

In this section we look at the different ways courts typically share out assets to meet a family's needs when people get divorced. 'Assets' are everything you have other than income – things worth money, like houses and other property, furniture, cars, investments, savings, pensions, and jewellery. We deal with pensions separately on in the section called [Pensions](#).



## Housing

One of the most important needs for any of us is housing. So, the first thing a judge will do is to make sure you both have somewhere to live – if you have enough money to make that possible.

And when you are deciding how to do this, you need to think about the same things a judge would think about, including the following:

- Your children's welfare is the most important thing to consider. In many cases this can mean that most, maybe all, of your assets will go towards providing a home for your children. The priority is to make sure that the parent the children live with most of the time gets somewhere to live – somewhere that is suitable for the children. But it is still important to think about the other parent's need for housing, as well as their need to have somewhere for the children to come and stay.
- If the family home is owned by one or both of you rather than rented (including where you are still paying for it with a mortgage), then it is likely to be the main asset available for you to share out to meet your housing needs. If this isn't enough to pay for the housing you need, you might also need to use any other high-value items you own either separately or jointly such as investments, cars, or buy-to-let property.
- You may only be able to afford the mortgage you need to buy somewhere reasonable to live if you get maintenance from your ex. If you are in this situation, it may be better if you get more of the assets so that you can borrow at a lower level and repay the mortgage yourself, without having to rely on maintenance.
- Who currently owns the family home is generally of no significance when you get divorced: a judge has the power to transfer it between you in order to meet your needs.
- A family home which is rented may also be an asset. If you have a local authority or housing association landlord then a judge has the power to transfer the tenancy to one of you. If you have a private landlord the judge doesn't have the same power but will still need to know how you intend to deal with the tenancy. For information about the options available to you, see [page 33](#).
- An important first step is to get a full picture of the assets available. This will normally involve you getting an up to date valuation of any property, an up to date figure for the sum still

owing on any mortgage (including any penalties for paying the mortgage off early, known as 'early redemption penalties') and an understanding of the size and repayment schedule for any other debts or liabilities.

- Should you keep the family home for one of you to live in? Keeping the family home has the benefit of reducing change at what is likely to be an unsettling time, particularly if you have children. This is especially true where a move may require a change of school and disrupt local friendships and activities. Keeping the family home may also have financial benefits. For example, it avoids the costs involved in selling, moving and buying a new home, and may enable one of you to keep the existing mortgage in a situation where getting a new mortgage may be difficult.

- If one of you wants to keep the existing home and mortgage, you need to find out whether the mortgage company will agree to this. You also need to check whether they will release the other one from any further responsibility for the mortgage.

- When you do your sums, it may become clear that neither of you can afford to keep the family home as well as making sure that the other has enough money to buy or rent a new home. In these circumstances, you may have to sell it to release money to help you buy or rent alternative, more modest homes. One, or possibly both of you, may have to move into rented property, at least to start with.

- When you work out what housing you can afford, you need to think about the income you will need to pay the rent or a mortgage. You can find out how much housing benefit you may be entitled to (to help pay the rent) on the [Turn2us](https://www.turn2us.org.uk) website. Search 'housing benefit' in their search box. Universal Credit is being phased in across the UK so,

depending where you live, when you make a claim for housing benefit you may be required to claim Universal Credit instead. You can find information about Universal Credit on the [Turn2us](https://www.turn2us.org.uk) website too.

- You can use the [MoneyHelper mortgage calculator](https://www.moneyhelper.org.uk/mortgage-calculator) to estimate how much each of you may be able to borrow on a new mortgage in your own name to buy a home. You may hear this called 'borrowing capacity'. You will still need to visit a mortgage lender like a bank or building society to get a specific quote.



- The standard of living you enjoyed during the marriage is a guide to the standard of housing you may be able to expect in the future. But in practice, what is just about enough to keep one family going is often not enough to provide adequately for two households. So, it may be impossible for that standard to continue. If your standard of housing has to reduce, then ideally that should not affect one of you more than the other. Again, in practice, if you have children, then their needs may mean that the parent they don't live with most of the time has to make do with a lower standard of accommodation.
- If either of you or your children has a physical or mental disability or ill health, then this may impact on your housing need. For example, if the family home has already been adapted to meet the needs of a disabled family member, then, if it's financially possible, it may make sense for whichever one of you is disabled or cares for the disabled family member to keep the home.

## Assets

## Examples of how courts deal with meeting housing needs

Here are some typical situations that may help you work out what is best to do in your circumstances.

### Situation A:

#### If you own the family home (with or without a mortgage)

##### 1. If you own the family home and neither of you can afford to keep it.

The size of the mortgage (and possibly other debts) and how much income you have may mean that it is not possible for either of you to keep the family home after you divorce. In those circumstances, you will have to sell the home. You can then share out the proceeds from the sale (after you pay off the mortgage and other sale costs such as estate agent's fees) in a way that meets both your needs – as far as is possible. The law normally gives priority to the parent whom the children live with for most of the time, or to the parent with the lower income, who may need money for a deposit for a tenancy and/or furnishings for themselves and the children.

In situations where there is not enough or any money to buy a new home, the only solution is for both of you to apply for social housing, rent accommodation privately, or return to live in shared accommodation with family members or friends.



##### 2. If you own the family home and one of you keeps it and the other leaves and has to find new accommodation.

In this situation, often there is not enough money to buy a second property for the person leaving the family home to live in.

If you have children under 18 then the priority is to make sure that the parent with whom the children live most of the time gets somewhere to live – somewhere that is suitable for the children. This may mean that there is little or no money immediately available for the other parent to use to buy another home. As a result, they may have to rent somewhere or live with family members or friends.

If there are no children under 18 living at home (or where there are no children), it is harder to justify one of you keeping the family home to the exclusion of the other, without making sure they get enough money from your other assets to buy another home of a similar standard. If you haven't got enough to do this, then you may have to sell the family home and share out the proceeds. If you have children over 18 who are still in full-time education and living at home, you should think about whether it is possible to delay any sale until they have finished their studies.

There is a particular type of order (the law calls it a 'Mesher' order) which involves the parent leaving the family home keeping some interest in it, which they get later.

#### Mesher orders

A Mesher order gives a percentage share of the value of the family home to the parent who doesn't get to keep it. This is paid to them at a specified time in the future, for example when their youngest child finishes education (either school or college/university). You can add other 'trigger events' so that if, for example, the parent who remains living

in the family home remarries or cohabits permanently with a new partner (normally defined as living together for over 6 months) or dies, then the parent who has left the family home will get paid their share.

Think about whether this kind of arrangement really suits your situation. If you are the person who stays in the family home, you will need to be able to raise enough money to buy out your ex's percentage share when the repayment is due or sell the home to do this. If you have to sell, where will you live then?

Deciding what percentage share you should each get depends on several factors, including the age of the children, what you will each contribute to the running and upkeep of the home, and the anticipated earning and borrowing capacity of the one who will need to find somewhere else to live when the property is sold.

If you are the person who no longer lives in the family home but you still make a significant contribution by paying the mortgage and/or maintaining your ex, then it may be fair for you to get a 50% share of the property. If you are not making this level of contribution, and if the parent still in the family home continues to be the children's main carer for several years then you may get between 30% and 40%.

The percentage share is specified at the time of the agreement so that you both have certainty. What the person no longer living in the family home gets will be a percentage of the value at the point of sale rather than at the time you reached an agreement.

Mesher orders normally result in ownership of the family home being transferred to the person who is going to continue living in it. Usually the mortgage will need to be transferred too. The other person has a legal charge (a bit like a mortgage) to protect their percentage interest. However the mortgage company has to agree to this



and it has to agree to the mortgage being transferred to the person who stays in the home. If that person is on a low income the mortgage company may well not agree to this, because they will not want to reduce the number of people liable to pay the mortgage.

Agree and record what responsibility (if any) you each have to pay the mortgage, utility bills, buildings insurance, and continuing repair and decoration costs. This will help avoid confusion or disputes in the future.

Mesher orders need very careful drafting and we suggest you get a solicitor to do this. For information about how to find a solicitor see the section called [More help and advice](#). Or, you can contact one of our panel members who are all specialist family law solicitors and members of Resolution. Because drafting a Mesher order is complicated, our panel members are not able to say exactly how long the work will take and so they can't offer you a fixed fee on this. But you can talk to them about how much it will cost and how long they think it will take.

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[www.advicenow.org.uk/other-family](http://www.advicenow.org.uk/other-family)

Assets

## Jade and Steve

**This is not a real case. But it shows a typical situation and how a judge might decide to share out a couple's income and assets after divorce. They could be a same sex couple – the judge would make decisions in the same way. We hope it helps you think about how to deal with your own situation.**

Jade and Steve are in their early thirties and are getting divorced after being married for five years. They separated six months ago when Steve moved out. They have two children Mark (5) and Scarlett (3). Jade has not worked since Scarlett was born so that she can look after the children. Scarlett currently goes to nursery five mornings a week. Steve works full time and earns £40,000 gross – he brings home £2,460 each month. Before having children, Jade earned £22,000 working full time. She can earn £10,000 working 2½ days each week. Her mother and Steve's will between them look after Mark and Scarlett when Jade is at work.

Jade and Steve have agreed that the children will continue to live with Jade and will still see Steve every weekend. The family home is worth £180,000 – they have an interest only mortgage of £120,000, which costs £400 per month. Steve's rent (for a two bedroom flat) costs £600 per month. When they separated Jade contacted the Child Maintenance Service about child maintenance and they have assessed that Steve should pay £533 per month. You can [calculate child maintenance](#) on the GOV.UK website by searching online for 'calculate your child maintenance'.

They have a joint debt on credit cards of £3,500. They both have cash ISA accounts: Steve's has £4,000 in it and Jade's £2,800. Steve has a small pension connected with his work worth £5,000, but Jade has no pension savings.

### Possible outcome

The children need to have a home. If the family home is sold, the mortgage and the sale costs paid, there will be about £54,600 left. This is unlikely to be enough for both Jade and Steve to buy a new home each, even with a mortgage. So, as the needs of the children must come first, this means that Jade and the children should probably continue to live in the family home. Steve will need to rent a place to live. After paying his rent and child maintenance Steve is left with £1,327 each month.

*(continued)*

*(continued)*

Jade will not have to pay tax on her earnings of £10,000 per annum and can qualify for Working Tax Credit (as she will be working more than 16 hours each week) and Child Tax Credit.

You can find out if you are eligible for tax credits by using the [GOV.UK tax credits calculator](#). These benefits will provide Jade with about £717 each month (but the rules about tax credits are changing so this may change in the future). She will also have her Child Benefit of £149.06 per month.

So her monthly income will be about £1,699 plus the child maintenance – in total £2,232. It is fair that Jade's income is more than Steve's as she has the children with her most of the time, but the mortgage and other household bills have to be paid. It might be fair to suggest that Jade pays the whole mortgage. Then Steve will have £1,327 available for himself each month and Jade will have £1,832 for herself and the children.

Jade's claim for maintenance for herself should not be dismissed now. The children are so young and the future uncertain, so she should have a nominal order to last until Scarlett goes to secondary school. (See [page 41](#) for information about nominal orders)

It makes sense to pay off the credit card debt by using the money in their ISAs. If they paid the debt 50/50, Steve would have £2,250 left over and Jade would keep £1,050. No pension sharing order would be required.

Steve and Jade can keep the house in their joint names and then sell it when the children have both left school or are over the age of 18. They could agree to sell it if Jade remarries or lives with somebody else as a couple. When they sell the house, they will pay off the mortgage. What is left can perhaps be divided 60% to Jade and 40% to Steve. This division in Jade's favour would reflect not only the continuing contribution she will make to the welfare of the family by caring for the children but also the impact that that will have on her earning capacity. Jade may then have to rent, as Steve has been doing.



### 3. If you own the family home and there is enough money for both of you to buy homes of a lower standard.

Sometimes divorce can lead to the sale of the family home with the net proceeds of sale being enough to allow both of you to buy a new home. In most cases, these are likely to be more modest than the family home.

If you have no children and you both have similar incomes and mortgage-borrowing ability, with similar housing needs, then a 50/50 division of the net proceeds of sale is probably fair. But if, for example, your earning capacity has been limited during the marriage (and/or following divorce) because of child-care responsibilities, then you may be able to borrow less money for a mortgage than your ex. A judge will often expect the person who can borrow more to take out a mortgage (or a larger mortgage) in order to buy a new home for themselves, while the other gets a larger share of the money from the sale of the house. This will allow them to buy something of a suitable standard either with no mortgage or a smaller mortgage.

If you need to share out the money from the sale of the family home unequally, then you should think about whether the person getting the smaller share should receive a greater share of any other assets.

### 4. If you own the family home and there is enough money for both of you to live in homes of a similar standard.

If there is enough money for both of you to have homes of a similar standard to the family home you lived in during the marriage, then that would normally be the fair thing to do. Where you both want to buy new homes, you can sell the family home and share the proceeds of sale or one of you can keep the family home (especially if there are children) and the other buy somewhere new.

However, this will not always be fair or even possible. For example, the family home may be too big for you or you may not be able to afford the mortgage. Even if you get maintenance, you may only get it for a fixed period. If so, it may be necessary to sell the home immediately or before the maintenance payments are due to stop.

After a short marriage with no children, where one of you has made a significantly greater financial contribution, it might not be fair for the person who has made less of a financial contribution to expect housing of a standard that they have only had for a few years. But they still need somewhere to live and it's fair that they get some help, even if it's at a more modest level.



If you can possibly afford it, it will be very helpful to get some legal advice on how the court deals with property when you or your ex owns the family home.

## Get expert legal advice



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- ✓ How the court would view you and your ex's housing needs and the needs of your children.
- ✓ How the court would view the way you and your ex own your property and what this means for your case.
- ✓ What documents you need to get to show the court what your housing needs are.
- ✓ What your best options are, given your personal circumstances.

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## Situation B:

### If you rent the family home

If you rent the family home find your tenancy agreement and check whether the tenancy is in your joint names or in the name of just one of you. This can make a big difference to what can happen to the tenancy. It will also show you who is currently responsible for meeting the obligations under the tenancy agreement. If your name is still on the tenancy, even if you move out, you are still legally responsible for paying the rent until the tenancy ends or is transferred to your ex.

Try and reach an agreement with your ex about who (if either of you) is going to stay in your rented home. If you can do this, it is likely to make things much easier to deal with. Sometimes it will be possible for one of you to stay on as the sole tenant, as long as you can afford the rent (perhaps with the assistance of housing benefit or universal credit) and your landlord agrees.

If you are unable to agree, your options depend on who your landlord is – see section 1 on [page 34](#) and section 2 on [page 35](#).

While you are still married you have the right to live in a home which is rented in the sole name of your ex for as long as the tenancy continues unless a court orders otherwise. But this right stops when you get divorced unless you take steps to extend this right. For more information about this take a look at the [MoneyHelper website](#) and search 'renting rights on divorce'.

If you and your ex are joint tenants of your rented family home, and if either one of you gives notice to quit the whole tenancy comes to an end and none of the family will be able to continue living there. If you are worried that your ex may do this against your wishes then you need think about applying for a court order to stop this happening and for an order that transfers the tenancy into your name.

## Assets



Depending on your situation, you may need to do this very quickly. If you give notice to quit, your local authority will probably consider you to be 'intentionally homeless'. This means you will not be eligible for re-housing as a homeless person.

Deciding whether giving notice to quit is the right thing to do in your situation, and if so when and how to do it, are complicated questions. As is working out if you need to apply to court for an order to stop your ex from ending the tenancy. You might have good reasons for the court to decide that the tenancy should be put in just name. It is a good idea to get specialist advice as soon as possible.

Shelter helps people struggling with problems with rented housing through advice, support, and legal services. Visit [Shelter](#), or [Shelter Cymru](#) if you live in Wales, for information and advice online and to access Shelter's emergency helpline.



Depending on your situation, you may be able to get legal aid via a family law solicitor who can tell you if you need to apply to the family court for orders to protect your rights to stay in your rented family home. Not all family law solicitors offer legal aid and you have to have a low income and evidence of domestic abuse to qualify. Look at the [Resolution website](#) and look for the green tick next to the solicitor's name.

## 1. If you rent your family home from a social landlord (a local council or housing association)

This kind of tenancy usually gives you more favourable terms than a tenancy in the private sector, so you might both want the tenancy after you get divorced.

If you are in this situation and you cannot agree which of you should get the tenancy then a judge can decide for you. A judge is likely to favour the parent that any children will live with after the divorce, but can also take into account the needs and financial resources of both of you. So, for example, a judge would want to know if one of you is better able to afford to rent in the private sector. They would also consider the circumstances of the initial grant of the tenancy. So, for example, a judge would want to know if one of you has a medical problem and got the tenancy in just your name to begin with because of this condition.

Your landlord can express a preference about which of you should have the tenancy, but has to accept the decision of the court. Most social landlords remain neutral in these circumstances.

If you agree who should have the tenancy, but the landlord objects for some reason, then the court can approve your agreement and in most circumstances the landlord will have to accept this.

When your family separates your landlord cannot insist that you give up your property and move into a smaller one. But sometimes it is possible to negotiate with a social landlord to provide, for example, two smaller flats (one each) in return for giving up a larger one. Your landlord's willingness to do this is likely to depend on what properties they have available. The court cannot force them to do it.

## 2. If you rent your family home from a private sector landlord

In these circumstances your tenancy will probably be one which allows the landlord to end it after the initial period of time it lasts for runs out (usually six months or a year). A judge has very limited powers to stop this happening.

It may be that neither of you want to continue with the tenancy after the divorce, in which case you may want to talk to your landlord about getting out of the tenancy obligations (in particular having to pay the rent) as soon you can. The landlord may not let you do this and a judge cannot make them.

If either or both of you want to continue with the tenancy after the divorce, then again you need to talk to your landlord because the court will not impose any arrangement against the wishes of a landlord and you will not be able to insist on anything that is different from the original tenancy agreement.

If you can possibly afford it, it will be helpful to get some legal advice on how the court deals with property when you or your ex rents the family home.

**Get legal advice from one of our panel of expert solicitors**



at a **fixed fee of £120** on

- ✓ How the court would view your and your ex's housing needs and the needs of your children.
- ✓ What your best options are, given your personal circumstances.
- ✓ What steps to take next.

**FIND OUT MORE | >**

or go to  
[www.advicenow.org.uk/finances-5](http://www.advicenow.org.uk/finances-5)

Assets

## Other needs

Once you have sorted out your housing needs, then you can look at your other needs. Next we list some things you may need money for.

- Pay your debts. If there are significant debts, you will need to take these into account when you look at what you have to meet your housing needs. If possible, you should clear any debts taken on during the marriage for the benefit and support of the family to allow you both to start your life after divorce free of these debts.
- Pay course fees to enable one or other of you to retrain or refresh your skills to help you get back into the jobs market.
- Repair a property in which one of you is going to live.
- Buy furniture and household contents. You need to decide how to share out the contents of the family home between you. It's expensive to ask a court to do this for you so try to agree on a list of who gets to keep what. One or both of you may then need to replace furniture, appliances or other items which the other has kept, so you need to think about how to pay for those things. Whether you get the money to buy a £10 kitchen bin from the market or a £100 one from an upmarket store depends partly on your standard of living during the marriage (what kind of bin you had before) but also whether there is enough money to buy what you want.
- Buy a car. If you had a car during the marriage which one of you keeps, then, depending on need, the other one may need money to buy a car.
- If neither of you has any money to meet your other needs, then in practice they are not going to be met.

**Are debts taken out in the sole name of just one of us relevant?**

The law takes all debts into account, whoever's name they are in. However, a judge cannot transfer debts from one person to another. So an unpaid debt will remain in the name of the person who took out the loan or credit card. Even so, the need to pay the debt is something that a judge will take into account when deciding on a fair settlement.

If there is enough cash, the ideal solution is for all debts to be cleared at the point of divorce so that both of you can start again, debt-free. Often, however, that will not be possible and a judge will take into account any continuing responsibility you and your ex have for existing debts. Where you or your ex borrowed money just for your own benefit, rather than for the benefit of the family, and the amount of debt is reckless, a judge may take that into account too.

### Assets



## Looking at the overall division of assets

In many situations, your different needs and ability to meet those needs may mean that it is not possible for you to share your assets equally. The person with the greater need will receive the greater share. In many cases the person with the greater need will be the person doing most of the childcare after the divorce. Their needs increase and if they cannot work full-time, this reduces their ability to meet those needs themselves.

A judge may think about whether it is possible to do anything to reduce this imbalance. So, if you have sorted out how to meet your housing needs, you could try evening up the overall division of assets – assuming you have some surplus assets to share out. This could include, for example, the person not keeping the family home getting more of any investments or a larger share of the pension funds.



## Equal division of surplus assets after both of your needs have been met

In some situations, there will be enough assets to meet both your needs comfortably, and for there to be a significant surplus left over. It may be that just sharing that surplus equally would be the fair thing to do, particularly after a long marriage. However, sometimes there may be a good reason not to share equally. High value cases are complex and if you are in this situation you should get legal advice.

Assets

# Income

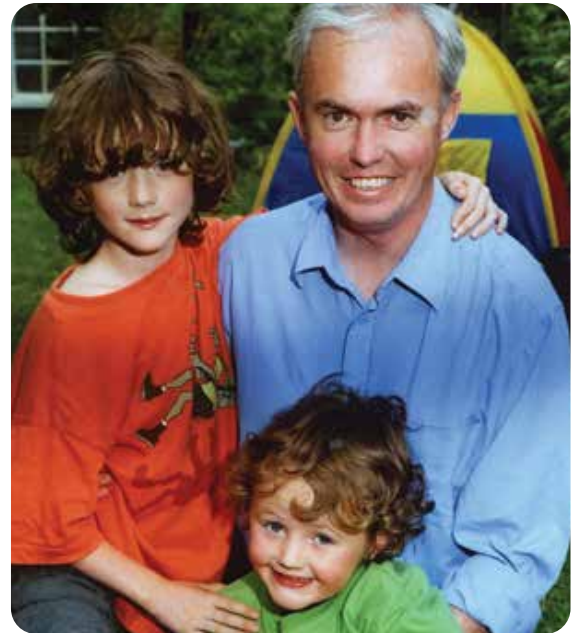
**When deciding whether a proposed agreement is realistic, affordable and practical, think about how much income you will need, as well as your housing and other needs and their impact on each other. The running costs and day to day living expenses of two households may have to come out of the same income that previously only had to pay for one household. You may find it helpful to ask yourself questions such as:**

- If I want to live in house A, will I have enough income to pay the running costs?
- Do I need more income to live there?
- If so, where will I get that income from?
- Does my likely income mean that I can't afford to live in house A?
- If so, do I need to think about living in cheaper house B?

You or your ex may be eligible for some welfare benefits when you get divorced, for example universal credit, (or tax credits and housing benefit if you live in an area where universal credit is not yet phased in), council tax reduction and child benefit. This could make a real difference to your income, so it's worth checking your entitlement. You can do this by using a benefits calculator like the one you can find on the [Turn2us](#) website.

If you both work and earn enough to support yourselves fully, then neither of you will need to pay the other any money to meet day to day income needs.

If one of you works but the other doesn't or works but earns significantly less than the other, it may be necessary for the higher earner to pay a regular sum of money to support the other. You may hear this money called 'maintenance', 'spousal maintenance' or 'periodical payments'.



## Child maintenance

Child maintenance is money paid by one parent to the other to meet the income needs of their children. You generally pay child maintenance either until your child turns 16 or until they finish full-time, non-advanced education (A levels, BTEC national diploma), up to their 20th birthday.

It is not the same as child benefit, which is paid by the State. Child maintenance needs to be included in any settlement discussions and factored into any agreement you reach.

### If you can agree

Courts encourage parents to agree the amount of money the parent who doesn't do most of the childcare will pay the other towards the cost of looking after the children.

You can find out how much child maintenance you should be paying or receiving by searching online for '[child maintenance calculator](#)'. This will take you to the GOV.UK information pages and a calculator.

If you can agree the amount of child maintenance, you can include this in an application for a 'consent order' that also deals with the rest of your finances. If either of you later decides that you are not happy with this amount, then once at least a year has passed since the consent order was made, you can apply to the [Child Maintenance Service](#) (CMS) asking them to assess the right level of maintenance. The CMS assessment will then replace what is in the consent order.

### **If you cannot agree**

If you cannot agree the amount, either of you can apply to the Child Maintenance Service (CMS). They will carry out an assessment and, if necessary, collect the payments. However, if the Child Maintenance Service collects the money for you, they will charge the payer an extra 20% on top of the maintenance due and charge the person receiving the maintenance 4% of the maintenance payable.

## **Maintenance for you or your ex**

The court expects both of you to contribute financially to your own needs as far as you can. However, decisions made during the marriage and/or the care arrangements needed for the children following divorce may mean that one of you will not have enough income to meet your needs. If so, the other may have to pay them maintenance, in addition to any child maintenance.

The court asks itself three questions when deciding whether to order the higher-earner to pay maintenance to their ex. You should ask the same questions when trying to reach an agreement about maintenance for you or your ex.

## **1. Should there be a maintenance order at all?**

Ideally, couples share out their assets so that they can become financially independent of each other, either straightaway or over time (possibly, several years). This is known as having a 'clean break'. If it is possible to achieve this, then this should be your aim. A maintenance order should help whoever gets it with the transition to financial independence, wherever possible.

However, whether and when you can achieve financial independence will depend on the circumstances of your case. Where there are children or the marriage has been long, this may not be fair or possible unless there are enough assets available to split between you and you both have enough income to be self-supporting.

The most important thing is to make sure, wherever possible, that both your needs and those of any children are met.



| Situation  | What a judge is likely to do   |
|--|--|
| <p><b>One of you stays at home to look after the children or only works part-time because of the child-care they do and as a result doesn't have enough income to pay the costs of running a home.</b></p>   | <p>A judge is likely to order the other parent to pay maintenance to the stay-at-home parent. In cases where the child care is more equally shared between the parents, it may still be fair for the higher-earner to pay maintenance to the other parent, in order to make sure that the other parent can meet their income needs and the children enjoy a similar standard of living whoever they spend time with.</p> |
| <p><b>You have been married a long time and one of you has been the main earner and the other has not worked for many years (perhaps they stayed at home looking after children). The parent who has not worked for years is finding it difficult or even impossible to get a job.</b></p> | <p>A judge is likely to make a maintenance order unless they are satisfied that the parent who has not been working can get a job and support him or herself.</p>  |
| <p><b>You are both working but one of you earns much less than the other and cannot support themselves.</b></p>  | <p>Unless the marriage was short and/or you and your ex have no children together, a judge might make a maintenance order to cover the shortfall between what the lower earner earns and what they need to support themselves, though this may only last for a transitional period of a few years.</p>   |
| <p><b>You are both working and earn a similar amount.</b></p>  | <p>A judge will not make a maintenance order.</p>  |

**Income**



## 2. If a maintenance order is made, how much maintenance should be paid?

Unlike for child maintenance, there is no set formula to help you work out how much maintenance the higher earner should pay. The level depends on several factors:

- How much income you each have from all sources, including full-time and part-time employment, tax credits and benefits.
- How much you each need to cover your living costs, such as your rent or mortgage payments as well as day-to-day living expenses. You both need to write a budget that shows your income needs. Once you have done this you should exchange it with your ex and discuss them both. The budget at the end of [A survival guide to divorce or dissolution of a civil partnership](#) is a useful starting point. The reality is that, as for many divorcing couples, it may not be possible for either of you to enjoy the same standard of living that you shared during the marriage. Both of you may have to reduce your living costs.
- How much of these living costs you can each cover from your own income.
- How much the higher earner can afford to pay, given their own needs and their other financial commitments, such as child maintenance?

In a lot of cases, once you take child maintenance payments into account, it may not be possible for the higher-earner to pay significant maintenance to their ex as well.

If you are in this situation and your ex cannot afford to pay maintenance now or if it is too early to say with certainty that you will never need maintenance, it is possible to create a safety net by making a 'nominal order'. This is an order requiring a tiny payment, for example £1 per year, which can be varied in future to a higher amount, or cancelled, as changing circumstances require. So, for example, if the parent looking after the children is suddenly unable to work because one of the children becomes seriously ill or has a disabling accident, then if the other parent can afford to pay more at that point, this would be fair.

It is sometimes possible to reduce one person's need for maintenance from the other by giving them a greater share of the assets on divorce.

## 3. If a maintenance order is made, how long should it last?

After divorce, the aim is for couples to become financially independent where this is possible. This may not happen immediately and in some cases it may not be possible at all. Much will depend on your ages, the ages of any children and the way family life was organised before divorce. However, as a general principle, the court will always consider whether it is possible to end any financial dependence as soon as it is fair and reasonable to do so.



Income

| Situation   | What a judge is likely to do  |
|---|---|
| <p><b>You are not working but are likely to be able to return to work and earn enough to support yourself within a reasonable time.</b></p>   | <p>A judge is likely to make a maintenance order which only lasts for a fixed period. For example, it may last between two and five years, depending on how long the judge thinks it will take you to get back into employment and earn enough to support yourself. If you have children, then a judge is only likely to make this kind of order if the children have reached secondary school age.</p> |
| <p><b>You or your ex is staying at home to look after very young children.</b></p>  | <p>A judge is likely to make an open-ended maintenance order, not one that just lasts for a fixed period of time. You can review this kind of order later on, for example, if the person getting maintenance is able to return to work because the children are older.</p>  |
| <p><b>You divorce after a very long marriage, during which one of you stayed at home to bring up children or be a home maker, and is now unlikely to be able to return to full-time work and earn enough to support themselves.</b></p> | <p>A judge will usually make an open-ended order. You can review it later if circumstances change in the future.</p>  |
| <p><b>You had a short marriage, there are no children and one of you earns much less than the other.</b></p>  | <p>A judge may only order maintenance for a limited period of time if at all, to allow the person earning less (or who has not been working at all) to adjust to the need to earn his or her own living again.</p>  |

If your ex remarries, your obligation to pay maintenance to him/her stops automatically without the need for any further order. (Maintenance for children is different. It does not stop if you remarry or register a new civil partnership.)

## Anne and Rob

**This is not a real case. But it shows a typical situation and how a judge might decide to share out the couple's income and assets after divorce and order one person to pay maintenance to the other. They could be a same sex couple – the judge would make decisions in the same way. We hope it helps you think about how to deal with your own situation.**

Anne and Rob are in their mid-forties and have been married for 18 years. They have one child, Gary, who is 16 and has just done his GCSEs. Gary will live with Anne but see Rob from time to time, as Gary wishes. They live in a house bought ten years ago for £200,000 with a £150,000 repayment mortgage over 25 years. Their home is currently worth £300,000. They still owe £100,000 on the mortgage. They have both worked throughout their marriage. Rob currently earns £55,000 (and brings home £3,253 each month). Anne worked until Gary's birth, took time out until he went to school and has worked three days a week since then. She earns £20,000 (£1,383 take home each month). Rob and Anne have agreed that Anne can and will return to full time work when Gary goes to university. Gary will support himself from a student loan when he's at University. Anne's income will then increase to £34,000 (£2,208 net each month). They each have cash ISAs, Rob's is worth £15,000 and Anne's £8,000, and a joint savings account with £10,000 in it. Neither has a private pension. Rob and Anne will each need £150,000 to buy a new home.

### Possible outcome

They will need to sell the family home to release money to allow each of them to buy somewhere else to live. They will have about £191,000 to share between them. If they share this equally they would each have £95,500. It would also be fair to share the ISAs and savings equally (a total of £43,000). This would give each of them £117,000. Both will need a small mortgage to buy and move into a new home, say of £40,000, On a repayment basis at 4% over 20 years this would cost each of them £242 per month.

Rob will pay to support Gary. Anne and Rob have agreed that Rob should pay £515 a month which is in line with their GOV.UK Child Maintenance assessment outcome.

So Rob's available net income after paying the mortgage and contributing to Gary's maintenance will be £2,496.

*(continued)*

Income

*(continued)*

Anne has her net monthly income of £1,383. She will also get child maintenance (£515 per month) Child Benefit (£90 pm) and Child Tax Credit (£144 pm), giving her a total income of £2,132 per month. However after she pays her mortgage she will have £1,890 per month.

It would be fair for Rob to pay towards Anne's needs for the next two years and before her return to full time work. Were he to pay £400 per month he would be left with £2,096 and Anne would have £2,290 for herself and Gary.

When Gary goes to university and Anne returns to work full time, her take home pay will increase to £2,208 but she will no longer get Child Benefit or Child Tax Credit. After paying her mortgage she will have £1,966 each month. In contrast Rob, no longer paying for Gary, will have £3,011 per month after paying his mortgage.

After a marriage as long as theirs it's fair for Rob to go on helping Anne financially until Anne remarries or there is a change of circumstances, such as Rob's retirement, which would merit a review. If this stays at £400 per month, Anne would have £2,366 each month. A judge is likely to view this as a fair outcome since Anne's future needs have been generated largely as a result of the choices which she and Rob made together during their marriage which resulted in the interruption of her full-time career whilst she cared for Gary. If at some future point the situation changes so that the difference in their incomes is not so great (Rob's disposable income after Gary goes to university will be one third greater than Anne's), a judge might decide that the time had come to stop Anne's maintenance payments (or at least to reduce them significantly).

## What happens if I (or my ex) live with a new partner?

The fact you that one of you lives with a new partner does not mean that the other will automatically lose their entitlement to maintenance.



| Situation   | What a judge is likely to do   |
|---|--|
| <p><b>You are living with a new partner (but not married to them or in a civil partnership with them) and still getting maintenance from your ex.</b></p>   | <p>A judge is likely to expect the new partner to contribute to the household costs. As a result you may need less from your ex and so a judge may reduce your maintenance payments.</p>   |
| <p><b>Your ex is living in their new partner's home.</b></p>  | <p>A judge is likely to decide that this sorts their need for accommodation. If this also frees up some of their income, it may mean they can start paying you maintenance or pay you more.</p>  |
| <p><b>You are the higher earner and are paying maintenance to your ex. But you now live with a new partner and a child or children.</b></p>   | <p>A judge may review how much you can afford to pay in maintenance because of the change in your household's needs. This may depend on your new partner's circumstances.</p>  |
| <p><b>Your maintenance order says that maintenance payments will end completely if you live with a new partner for more than 6 months. You have lived with your new partner for longer than this.</b></p> | <p>A judge may consider extending the term during which your ex pays you maintenance if there is a risk your new relationship might break down. But a judge cannot do this if your order says you cannot apply to extend the term.</p> |

Income

### What happens if I (or my ex) have a child with a new partner?



If you are the person paying maintenance (the payer) and you have a child with a new partner, this increases your needs and financial responsibilities and so may reduce your ability to pay maintenance for your ex. It will reduce any child maintenance you pay, in line with the child maintenance formula.

If you are the person receiving child maintenance (the payee) and you have a child with a new partner, the presence of this new child will not affect the amount of child maintenance you get.

### What happens if I remarry?

Any maintenance you get for yourself from your ex will stop immediately.

If you have an order about what happens to the family home, this may say that remarriage is an event which triggers the sale of the home and division of the proceeds of sale as specified in the order.

## Income

## Karen and Sam

**This is not a real case. But it shows a typical situation and how a judge might decide to share out the couple's income and capital involving a move to financial independence. They could be a same sex couple – the judge would make decisions in the same way. We hope it helps you think about how to deal with your own situation.**

Karen (49) and Sam (54) are getting divorced after being married for 25 years. They have two children, Nikki (23) and Michael (20). Both now work full time although Karen had a career break from the NHS for 8 years from when Nikki was born until Michael went to primary school. Sam earns £40,000 per annum (£2,613 net per month) as a programme manager for the NHS. Karen works as a medical secretary for her local GP practice, earning £17,500 a year (£1,238 net per month). Nikki lives away from home and is independent but Michael, who is in his last year at university, still lives at home. The family home is worth £240,000 and the mortgage will finally be paid off early next year. They have a joint loan of £8,000 that was taken out to help fund an extension to the house two years ago. Sam has a cash ISA account and some savings together worth £18,350 and Karen has £30,000 left over from an inheritance (of £40,000) she received when her mother died several years ago. They are both members of NHS Pensions although as Karen had her career break, Sam's is more valuable. Because of this they have agreed to share the fund value of their pensions equally. It will cost each of them £145,000 to buy a more modest home.

### Possible outcome

At the end of this long marriage the family home will need to be sold as each will need somewhere to live. Once sold, after the final mortgage payment has been made, the sale costs paid and the loan repaid, there will be about £224,800 left over. It would be fair for Karen and Sam to share this asset and Sam's ISA and savings equally, so there is £243,150 or £121,575 each. Sam and Karen will have to downsize. One option is for Karen to get £121,575 and keep her inheritance. This would allow her to buy a new home without a mortgage, which she will need to do because she cannot afford to pay a mortgage from her income. They have agreed to divide the fund value of their pensions equally.

*(continued)*

Income

*(continued)*

On this basis, Sam will need a mortgage of £35,000. On a repayment basis at 4% over 15 years this will cost £268 per month. His take home pay is £2,613 each month so after he has paid his mortgage he will have £2,345.

Given the difference in their incomes it would be fair for Sam to pay some maintenance to Karen until he retires. On this basis, and because Karen has kept her inheritance and has no mortgage, it is only fair on Sam that his support should be for a limited period but long enough for Karen to adjust and make the transition to independence without undue hardship.

Sam could pay maintenance to Karen for 5 years on a sliding scale – say £400 per month in the first year (Sam would have £1,945 / Karen would have £1,638), £320 each month in the second year (Sam £2,025 / Karen £1,558), £240 each month in the third year (Sam £2,105 / Karen £1,478), £160 per month in the fourth year (Sam £2,185 / Karen £1,398) and £80 a month in the fifth year (Sam £2,265 / Karen £1,318). Then maintenance could stop. Sam would be 60 and Karen 55 and they would be independent of each other before they each retire.



# Pensions

**Immediately after your marriage breaks down, you will probably focus on the things you need to sort out straight away, such as where you are going to live and what you are going to live on. But it is very important not to overlook any pension funds you each have, as these are often the most important source of income in later life.**

Pensions can get complicated and so we have another guide to help you on this. Go to [A survival guide to pensions on divorce](#) for a step by step guide on what to do about the pensions you both have, when you get divorced or end your civil partnership.

Do make sure you sure you look into pensions by using our guide. It can be tempting to ignore them or put off dealing with them, but that is a very bad idea. If you do, you probably won't arrive at a fair agreement, and one of you may miss out by a significant amount.



# What does it mean?

**Assets** – everything you have other than income – things worth money, like houses and other property, furniture, cars, investments, savings, pensions, and jewellery.

**Clean break** – a clean break order ends your financial responsibilities for each other.

**Dissolution** – the legal ending of a civil partnership.

**Divorce** – the legal ending of a marriage.

**Form E** – the form you complete to tell the court about your finances. You can find information about how to fill in Form E in our guide [How to apply for a financial order without a lawyer](#).

**Legal aid** – help from the government to pay for legal advice and representation at court.

**Legally binding** – an agreement that can be enforced by the court.

**Mesher order** – a court order that postpones the point at which the person moving out gets their share of the family home – usually until a specified event occurs, for example, the youngest child reaches 18 or completes their full time education.

**Nominal order** – an order for a minimal amount of maintenance (for example £1 a year). If you get a nominal order, this keeps open the possibility of asking for more in the future if your or your ex's circumstances change.

**Prenuptial agreement** – an agreement made before you marry which sets out how you will share out your assets if you split up.

**Settlement** – an official agreement sorting out your finances with your ex.

What does  
it mean?

# More help and advice



## Relationship and emotional support

[Relate](#) offers relationship support. They have lots of information on their website about a range of problems that can arise in relationships and families.

## How to find a family mediator

If you are looking for a family mediator you could ask friends and family for a recommendation or your solicitor, if you have one. It is a good idea to check any recommendations using the family mediator finder service on the [Family Mediation Council](#) website.

It is fine to phone around, ask how much they charge and compare prices.

For more useful information on mediation as a process have a look at [A survival guide to family mediation](#).

## How to find a legal adviser

Ask friends and family for a recommendation. You can also search online:

- [Find a Resolution member \(for family law\)](#)
- [Find a legal aid adviser or family mediator](#)
- [Find a solicitor in England and Wales](#)

[RCJ Advice](#) may be able to help you if you:

- live in England or Wales,
- have a case in the Family Court, and
- are not already represented by a solicitor or barrister.

To book an appointment, please check their website for latest appointment details.

[Rights of Women](#) offers free, confidential legal advice for women in England and Wales on family law matters (for example, about domestic violence and abuse, divorce, cohabitation, finances and property on relationship breakdown, parental responsibility and arrangements for children and lesbian parenting).

For women in England and Wales, call: **020 7251 6577**. Line open Tuesday to Thursday, 7pm-9pm, Fridays 12pm-2pm (closed on public holidays).

For women in London, call: **020 7608 1137**. Line open: Mondays 10am-12pm and 2pm-4pm, Tuesdays 2pm-4pm, Wednesdays 2pm-4pm, Thursdays 10am-12pm and 2pm-4pm (closed on public holidays).

## Paying for legal advice

Legal aid is only available to apply for a financial order in very limited circumstances. More and more lawyers are offering a wider range of products and services than in the past. These include:

- Free or low cost initial telephone consultations
- Pay as you go advice – where you pay for the advice you receive at the time you get it. This can be helpful if you don't mind doing some of the paperwork and admin involved yourself.

More help  
and advice

- Fixed fees – where you agree in advance what you are buying and what you are paying for it. This usually applies to longer pieces of work, for example, to negotiate a financial agreement.
- Online services that let you buy, for example, a DIY consent order with or without a clean break or a bespoke consent order – where a lawyer will manage getting the consent order for you.

It is okay to shop around and compare prices. Look carefully at what is and is not included to make sure you buy the right service for you.

## Help with dividing your money, property and possessions

The [MoneyHelper](#) offers free information and a calculator to help you draw up a budget so you can stay on top of your finances, work out what you have and what you owe and create scenarios for splitting what you have – [Managing money – divorce and separation calculator](#).

## Help at court or help with a court hearing by phone or by video call

Court staff may be able to explain court procedures or help you find a court form. They are not able to give you legal advice.

[Support Through Court](#) supports people going through the court process without a lawyer. Volunteers offer a free and confidential service at some court buildings. You can look at their website to see if they have an office at your local court. The volunteers aim to help you manage your own case yourself. They cannot give legal advice or act on your behalf, but can offer practical help such



as going to your hearing with you and supporting you with your forms. They can also help you if your hearing is by video or phone, by talking you through the process and sometimes joining the hearing too. They run a free national helpline **03000 810 006**, open Monday to Friday 10.30am-3.30pm. This is a good place to start for information on what they can do to help you.

## Help and support for separating and single parents

[Cafcass](#) work with children and their families, and then advise the court on what they consider to be in the best interests of individual children. You can find lots of information and support on how to parent your children well with your ex, during and long after your separation, on their website.

[Gingerbread](#) provides expert advice, practical support and other help for single parents. They have lots of useful information on their website, so they ask that you look at that first before calling the helpline.

[www.gingerbread.org.uk](http://www.gingerbread.org.uk)

Single Parent Helpline: **0808 802 0925**

Monday – 10am-6pm, Tuesday – 10am-4pm, Wednesday – 10am-1pm and 5pm-7pm, Thursday and Friday – 10am-4pm. (Closed on public holidays).

More help  
and advice

[Family lives](#) is a national charity providing help and support in all aspects of family life. Their helpline can give information, advice, guidance and support on any aspect of parenting and family life.

Family Helpline: **0808 800 2222**  
Monday to Friday 9am-9pm,  
Saturday and Sunday 10am-3pm.

[OnlyMums](#) offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

[OnlyDads](#) offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

[MATCH – mothers apart from their children](#) is a charity that offers non-judgemental support and information to mothers apart from their children in a wide variety of circumstances. E-mail: [enquiries@matchmothers.org](mailto:enquiries@matchmothers.org). Helpline: **0800 689 4104** 9am-1pm and 7pm-9.30pm, Monday-Friday.

## Domestic violence and abuse

**Always dial 999 in an emergency.**

For support or to discuss your options you can call the 24 hour [National Domestic Violence Helpline](#) on **0808 2000 247** or in Wales, [Live Fear Free](#) on **0808 80 10 800** (24 hours).

Both help lines are for anyone who is experiencing, or has experienced domestic abuse, or for anyone who is worried about domestic abuse happening to a friend, family member or colleague. It is free, confidential and the number will not show up on a BT telephone bill.

If you are a man and you or your children are affected by domestic violence or abuse you can contact the [Men's Advice Line](#) on **0808 801 0327**.

[The National Centre for Domestic Violence](#) provides a free, emergency injunction service to survivors of domestic violence regardless of their financial circumstances, race, gender or sexual orientation. You can contact them on: **0800 970 2070**. Alternatively you can text: NCDV to 60777 and they will call you back.

[Galop](#) runs a national helpline for lesbian, gay, bisexual and trans people experiencing domestic abuse. You can contact them on **0800 999 5428**.

You can find more information and support from:

[Refuge](#)

[Women's Aid](#)

[Welsh Women's Aid](#)

More help  
and advice

# Notes

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## Disclaimer

The information in this guide applies to England and Wales only. The law is different if you live in Scotland or Northern Ireland. The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

# advicenow.org.uk

Making sense of the law and your rights

If you would like this guide in another format please email [guides@lawforlife.org.uk](mailto:guides@lawforlife.org.uk)

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