

Split decisions

Separation and divorce can have a huge impact on your finances. We look at what you need to know at the start and how to plan for the future

If you separate or divorce, your money will have to stretch much further than when you were married. It's likely you'll undergo a period of financial upheaval and adjustment.

Here, we focus on how to deal with the financial aspects of divorce. This applies to civil partners as well as married couples.

This report is only a starting point. Every divorce is different and it's impossible to cover everything – for example, we have not looked at emotional or legal aspects. For more information, pick up a copy of Which?'s *Divorce and Splitting Up* (see 'Book offer', p18) or check any of the organisations we have listed in 'Contacts' (p18).



DURING THE PROCESS

We examine what courts look for when dividing your assets

The first step is to disclose full details of your financial circumstances to each other. Most couples manage to come to an agreement about who should get what without going to court. But it's worth knowing what a court would do if you can't agree.

No simple solution

An important myth to dispel is that there's a legal formula for working out the division of assets and maintenance. This is not the case – the court has huge discretion and will seek to achieve 'fairness'.

Generally, the starting point is a 50:50 split, but this can be adjusted if it doesn't achieve a fair result.

Court considerations

A court takes various factors into account before making an order. These are known as section 25 factors and it's a good idea to consider them even if you're trying to reach an out-of-court agreement:

- the welfare of any children

FIRST STEPS

If you're thinking about separating, there are some important first steps to take

Your knowledge of divorce is likely to be limited. 'Use some of the guides available to get an informed view,' says Liz Tait, partner in family law at Irwin Mitchell solicitors.

Find a solicitor

Even if you plan to reach an agreement yourselves, it's helpful to meet with a solicitor so you know your rights.

Money matters

You should gather information on what you have and what you owe. Draw up a financial history, including your position before marriage.

If you haven't got one, open a bank account in your own name. Think about what you should do

with joint accounts. Each of you is liable for all debts, so talk to the bank.

If you don't have a will, your ex-partner will inherit if you die before the divorce, so consider making a will. If you have a will, talk to your solicitor about whether to change it.

Contact your local Jobcentre Plus to find out if you're eligible for benefits. When you separate, you must notify the benefits office (if applicable), HMRC (if you get tax credits)

and your council if you pay council tax or get housing or council tax benefit.

Your house

If you own a house, check your name is on the title – if it isn't, register a matrimonial restriction so the home can't be sold or remortgaged without your knowledge. The Land Registry has a guide on how to do this, or ask your solicitor. If the house is in joint names, check how you own it – again, the Land Registry publishes a guide. As joint tenants, your former spouse will inherit your share if you die. As tenants in common, you can specify who should receive your share. You can change a joint tenancy to a tenancy in common.





AFTER DIVORCE

Dealing with the financial aftermath of divorce and planning for the future

Q How can I manage on a reduced income?

A 'Putting together a budget is a good start,' says Simonne Gnessen of Wise Monkey Financial Coaching, which specialises in providing guidance and support on money issues. 'This may involve some guesswork if your situation has changed a lot. But you can firm up the figures as you go along.' Divide your spending into:

- fixed spending (such as mortgage, rent and energy bills)
- variable but day-to-day spending (includes food, petrol, travel, entertainment, clothes)
- occasional spending (such as car repairs, holidays, dental bills).

Simonne says: 'Using these categories, you can set up an account for fixed spending and arrange for direct debits or standing orders to come out of your account three days after you've been paid or received maintenance. Then you need to monitor only variable and occasional costs.'

For variable spending, consider drawing an amount of cash out each week. For occasional spending, work out a monthly figure to cover this and put that money into a savings account.

Q If mine is the only income, what if I can't work through illness?

A Check what cover you have through your employer and consider income protection insurance if you don't have any.



Q How can I protect my children financially if I die?

A If you have children who are dependent on you, check that you've got life cover (for Best Buy life insurance, see 'Keep yourself covered', p21). Also review your will – it will be interpreted as if your former spouse died on the date of the divorce. Check who you've nominated as beneficiary of any existing insurance or pensions.

Q What happens if my former spouse dies?

A If you receive child maintenance, you could use family income benefit (a type of insurance that pays out monthly) to insure those payments if he or she dies.

Q Will I have enough to live on in retirement?

A Once your divorce is settled, you'll know what your share of any existing pension will be. If there is a shortfall, get advice from an independent financial adviser.

Q Divorce has left me in debt. What should I do?

A If you can't meet your minimum payments, consider getting some free advice from an agency such as Citizens Advice or the Consumer Credit Counselling Service. Avoid debt management companies.

- financial needs, obligations and responsibilities of the husband and wife now and in the foreseeable future
- respective earnings and earning capacity, property and resources currently and in the foreseeable future
- age and the length of the marriage
- any disabilities
- the standard of living during the marriage
- the contributions of each to the family's welfare
- any benefit lost due to divorce (such as loss of pension rights)

■ conduct, but only if it is so bad it would be unfair to ignore it.

Court orders

The court can make a range of orders, such as cash payments, transfer of property or other assets, spouse maintenance and pension sharing.

It aims for a 'clean break' where you won't be left with any financial obligations to each other.

It is important to remember that each divorce is different and you need to find a solution that fits your resources. As the house is usually the biggest asset, it's often a good starting point for negotiations, but don't forget any pensions.

'Pensions are often much more valuable than people realise,' says solicitor Liz Tait. 'Don't settle for half the house, for example, without knowing what the pension is worth.'

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The number of section 25 factors that a court takes into account before making an order on a divorce

Insider information Top tips for using a solicitor

Liz Tait, partner in family law at Irwin Mitchell and adviser to Divorce Aid, gives her tips on getting the best out of your solicitor.

■ PREPARATION

Draft an overview of your financial position, including all assets – whether in joint or sole names – income and outgoings, and debts. Your solicitor will thank you if it's clearly and simply set out. You could send it in advance. Also outline your current circumstances and your objectives in terms of where you'd like to be, as well as your key areas of concern.

■ AT THE MEETING

Ask about all options,

from DIY/internet divorce right through to mediation, collaborative law (see below) negotiation and fully contested litigation.

■ **FEES** Check the hourly rate as well as disbursements (such as court fees) and ask for a total estimate of costs for your case. Also ask for regular breakdowns of costs incurred and estimates of future costs as the case progresses.

■ **WORK WITH YOUR LAWYER** Ask for 'homework'. It's possible for you to deal with some aspects of a divorce case, such as gathering financial information.



Liz Tait believes 'communication is key'

■ COMMUNICATE WITH YOUR LAWYER

But not necessarily on a daily basis. Remember, lawyers charge by time. Use your first meeting to discuss preferred communication methods as well as

the frequency of contact to expect.

■ THREE Cs

Remember that communication, co-operation and compromise, where appropriate, are key to obtaining a fair and cost-effective divorce.

SCOTLAND AND NORTHERN IRELAND

To a large extent, divorce in Northern Ireland mirrors the system in England and Wales. In Scotland, the financial orders that the court can make are similar but the principles that guide the court in making the financial orders are different. Visit www.fla-scotland.co.uk for more details.

FURTHER READING

Book offer



Divorce is never easy but Which?'s essential guide *Divorce and Splitting Up* could help.

To order the book at a special price of £9.99 (£1 off the RRP), with free p&p, call 01903 828557 quoting code DUW0508 and ISBN 978 1 84490 034 3 or visit www.which.co.uk/books

Checklist Keeping the cost down

Divorce can be very expensive. Here is a rundown of ways to reach an agreement, starting with the cheapest going through to the most expensive. It's worth noting that public funding (formerly known as legal aid) is available in some cases (see 'Contacts', right).

■ **Reach an agreement** This is probably the cheapest solution, but each person should still get independent legal advice on the final agreement.

■ **Mediation** Mediators are impartial third parties, such as solicitors or

social workers and counsellors, who help couples to communicate. Again, each spouse should get independent legal advice.

■ **Collaborative law** This involves a series of meetings with your solicitors and your spouse around the table to craft a settlement without going to court.

■ **Solicitors** Not always more expensive per hour than collaboration although it's likely to take longer.

■ **Court litigation** If you can't agree, you'll have to leave it to the court to decide.

Contacts

FOR INFORMATION ON DIVORCE

Advicenow www.advicenow.org.uk
Divorce Aid www.divorceaid.co.uk
Resolution 01689 820272
www.resolution.org.uk

PUBLIC FUNDING

Legal Services Commission (England and Wales) www.legalservices.gov.uk
Scottish Legal Aid Board (includes online legal aid calculator) www.slabb.org.uk
Northern Ireland Legal Services Commission www.nilsc.org.uk
Community Legal Advice (online legal aid calculator for England and Wales) www.communitylegaladvice.org.uk

TO FIND A SOLICITOR OR MEDIATOR

Resolution (England and Wales only) 01689 820272; www.resolution.org.uk
The Law Society of England and Wales 020 7242 1222; www.lawsociety.co.uk
The Family Law Association www.fla-scotland.co.uk
The Law Society of Scotland 0131 226 7411; www.lawscot.org.uk
The Law Society of Northern Ireland 028 9023 1614; www.lawsoc-ni.org

TO FIND A FAMILY MEDIATOR

National Family Mediation 01392 271610; www.nfm.org.uk
Family Mediation Scotland 0845 119 2020
www.familymediationscotland.org.uk

TO FIND A COLLABORATIVE LAWYER

01689 820272; www.collablaw.org.uk

FOR DEBT AND BUDGETING ADVICE

Citizens Advice www.adviceguide.org.uk
Consumer Credit Counselling Service 020 7436 9937; www.cccs.co.uk
National Debtline 0808 808 4000; www.nationaldebtline.co.uk

TO FIND AN INDEPENDENT FINANCIAL ADVISER

IFA Promotions 0800 085 3250
www.unbiased.co.uk
Institute of Financial Planning 0117 945 2470
www.financialplanning.org.uk

GENERAL

Land Registry www.landreg.gov.uk
Jobcentre Plus www.jobcentreplus.gov.uk