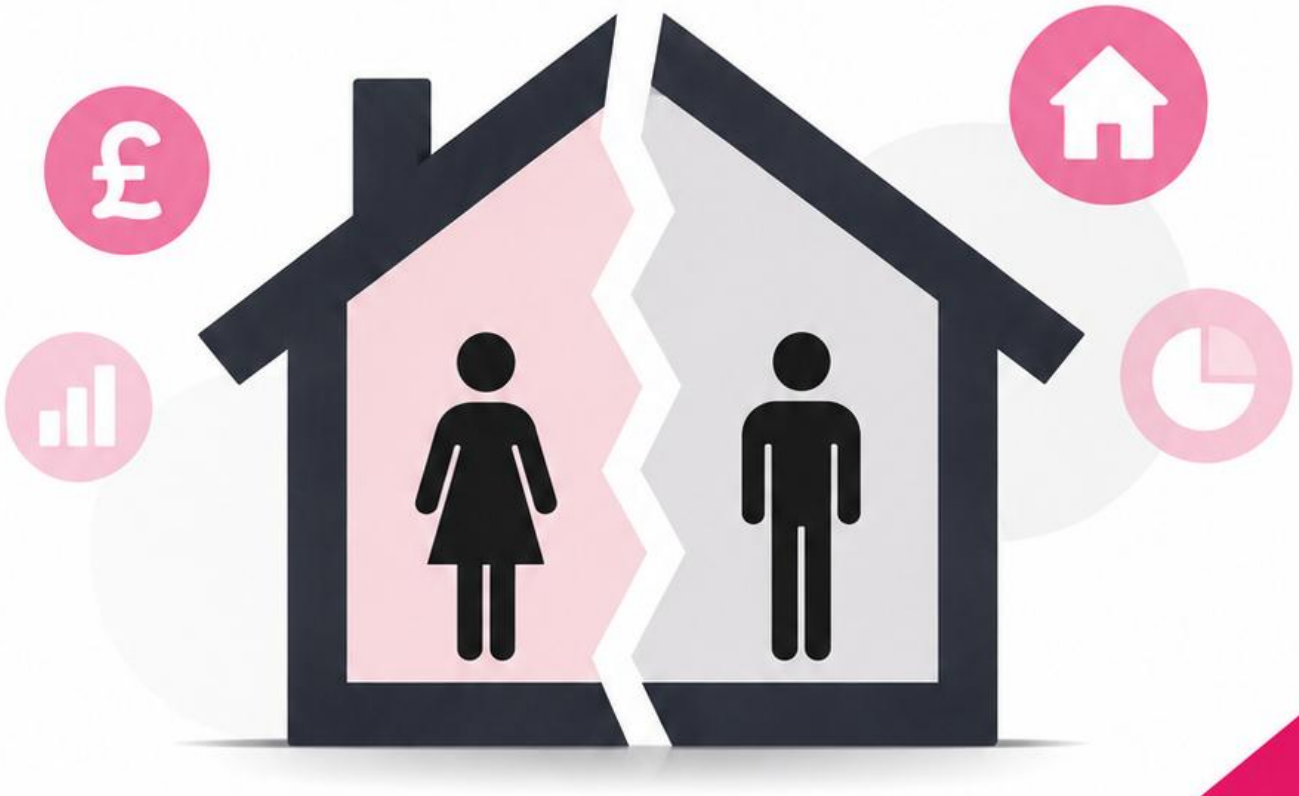
bright legal solicitors

A GUIDE TO

PROPERTY & FINANCES ON DIVORCE



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Welcome

Dealing with financial and property matters following separation can bring uncertainty and may feel overwhelming. This guide is designed to provide a clear overview of the key issues that may arise during financial remedy proceedings, while recognising that every case is unique. It is intended for general guidance and information only and should be read alongside the tailored advice we provide based on your individual circumstances. While every effort has been made to ensure the information is accurate, it should not be treated as a substitute for professional advice; for advice specific to your situation, we recommend speaking with one of our solicitors.

About Us

At Bright Legal Solicitors, we understand that family disputes can be one of the most challenging experiences a person will face. Our role is to provide clear practical legal advice and support throughout the process. We are a dynamic law firm with a proven track record of delivering exceptional legal services. Led by an award-winning solicitor with over 28 years of experience, our Family Law team combines extensive expertise with a personal, client-focused approach. We are committed to protecting what matters to you and providing practical solutions that help you move forward with confidence. You can find out more about our team by clicking here.

Divorce and financial settlements are separate processes

When a marriage breaks down, there are usually two separate legal issues. The first is the divorce itself, which legally ends the marriage. The second is the financial settlement, which deals with how assets, income, pensions and liabilities are to be divided and whether there should be ongoing maintenance.

The divorce process

Divorce in England and Wales is now primarily an administrative, no-fault process. The application may be made by one spouse alone or jointly by both spouses. Divorce application issued by the court.

- The other party acknowledges service unless it is a joint application.
- There is a minimum 20-week reflection period before applying for the Conditional Order.
- After the Conditional Order is made, there is a further minimum wait of 6 weeks and 1 day before the Final Order can be applied for.
- The Final Order legally ends the marriage.

Why the financial order matters

The Final Order does not automatically resolve financial claims. Unless a financial order is approved by the court, claims for capital, property, pensions and maintenance may remain open. This is why even couples who reach an agreement should usually have the agreement converted into a court-approved Consent Order.

Important

Do not assume that being divorced means finances are finished. A clean break or other financial order is usually required to achieve finality.

General Principles and The Court's Powers

The family court has wide powers to make orders designed to achieve a fair outcome. The court's focus is on fairness, needs, resources and practical implementation.

Types of financial orders the court can make

- Lump sum orders, including one-off payments or payments by instalments.
- Property adjustment orders, including transfer of the family home or other property.
- Orders for sale of property and directions about how net proceeds should be divided.
- Deferred sale orders, sometimes used where children need stability in the home for a period of time.
- Spousal maintenance orders, including term orders, joint lives orders or nominal maintenance.
- Child maintenance orders in limited circumstances, or by consent.
- Pension sharing orders, pension attachment orders or pension compensation sharing orders.
- Orders dealing with contents, chattels and other valuable personal items.
- Costs orders in appropriate cases, particularly where litigation conduct is unreasonable.

The court considers all the circumstances of the case. In many cases, the outcome is driven by needs; where each party and any children will live, how income needs will be met, and whether both households can be made financially viable. In higher value cases, the court may also consider sharing, compensation, asset source, business structures and liquidity.

Financial Disclosure and Form E

Financial disclosure is the foundation of any settlement. Each party must provide full, frank and clear disclosure of their financial position. Without disclosure, it is very difficult to advise whether a proposed settlement is fair.

What is Form E?

Form E is a detailed financial statement used in financial remedy proceedings. It covers income, property, bank accounts, investments, pensions, business interests, liabilities, future needs and supporting documents. It is verified by a statement of truth.

When is Form E exchanged?

In standard financial remedy proceedings, Form E is usually exchanged and filed not less than 35 days before the First Appointment. Many solicitors also use Form E or a similar format for voluntary disclosure, because it provides a clear structure and reduces the risk of missing important information.

What must usually be disclosed?

- Income from employment, self-employment, partnership, dividends, bonuses, benefits and other sources.
- Bank accounts, savings accounts and cash holdings, whether sole, joint, business or offshore.
- The family home and any other land or property, including mortgages, charges and valuations.

- Pensions, including Cash Equivalent Transfer Values and details of defined benefit or public sector schemes.
- Investments, ISAs, shares, cryptoassets, bonds, funds and investment portfolios.
- Business interests, directorships, shareholdings, partnerships, LLP interests and retained profits.
- Trust interests, expected distributions, loans from family or trusts, and any beneficial interests.
- Debts, credit cards, personal loans, tax liabilities, directors' loan accounts and guarantees.
- Insurance policies, endowments and valuable personal items.
- Future income needs, housing needs and capital needs.

Consequences of poor disclosure

Failure to disclose assets or income can have serious consequences. The court may draw adverse inferences, make costs orders, require further evidence, adjourn hearings, or in some cases set aside an order if it was made on the basis of incomplete or misleading information.

Practical tip

Start gathering documents early. Delays in obtaining bank statements and pension valuations are one of the most common reasons financial cases take longer than expected.

How the Court Decides: Section 25 Factors

If the court is asked to decide a financial settlement, it applies the factors set out in Section 25 of the Matrimonial Causes Act 1973. The first consideration is the welfare of any child of the family under the age of 18. The court then considers the statutory factors and all the circumstances of the case.

Factor	What it means in practice
Income, earning capacity and resources	The court considers income now and in the foreseeable future, including salary, bonuses, dividends, business income, investments, property income and earning capacity.
Financial needs, obligations and responsibilities	Housing, day-to-day living costs, children's needs, debts, school fees, disability-related costs and future responsibilities are considered.
Standard of living	The standard enjoyed during the marriage is relevant, although it may not be possible to maintain the same lifestyle in two households.
Age and duration of marriage	Long marriages often result in a more integrated financial partnership. Shorter marriages may require more focus on needs and source of assets.

Physical or mental disability	Health issues may affect earning capacity, housing needs, care costs and long-term financial security.
Contributions	Financial and non-financial contributions are both recognised. Caring for children and running the home are treated as valuable contributions.
Conduct	General marital behaviour is rarely relevant. Financial misconduct, litigation misconduct or conduct it would be inequitable to disregard may be relevant.
Loss of benefits	The court may consider loss of pension rights or other financial benefits as a result of divorce.

There is no automatic 50/50 rule. Equal division may be a useful cross-check, particularly after a long marriage, but the court may depart from equality where needs, asset source, liquidity, business risk or other circumstances justify doing so.

Non-matrimonial assets, inheritance and pre-marital wealth

Not all assets are treated in the same way. Assets built up during the marriage are usually matrimonial assets. Assets acquired before the marriage, after separation, by gift, inheritance or from family wealth may be described as non-matrimonial. However, they must still be disclosed.

Will non-matrimonial assets be excluded?

Not automatically. The court may treat non-matrimonial assets differently, especially in a case with sufficient matrimonial resources to meet both parties' needs. However, if needs cannot be met without using those assets, the court can take them into account.

Factors that may matter

- How and when the asset was acquired.
- Whether it was kept separate or mingled with matrimonial assets.
- Whether it was used as the family home or to support the family lifestyle.
- The length of the marriage and the degree of financial integration.
- The parties' and children's needs.
- Whether there is reliable evidence showing the source and value of the asset.

For high net worth clients, careful evidence about source of wealth can be important. Bank records, completion statements, trust documents, inheritance paperwork, tax returns and company records may help show whether an asset is matrimonial, non-matrimonial or mixed.

The Court Process

Many cases settle without a contested final hearing, but it is important to understand the court timetable if an application becomes necessary. Financial remedy proceedings are usually started by filing Form A and paying the court fee. Court fees are payable for certain applications and are subject to change. For the latest court fees, please refer to the HMCTS Court Fees Guide (EX50).

Stage	Purpose	What clients should expect
Form A application	Starts financial remedy proceedings.	The court issues the application and fixes directions. The parties will usually be required to exchange financial disclosure and prepare for the First Appointment.
First Directions Appointment (FDA)	Defines the issues and manages the case.	The court considers questionnaires, missing disclosure, valuations, expert evidence, pension reports and other directions. Parties usually attend personally unless excused.
Financial Dispute Resolution (FDR)	A without-prejudice settlement hearing.	The judge gives an indication of the likely outcome to help parties settle. The FDR judge normally has no further involvement if the case does not settle.
Final hearing	The court decides the case.	Each party may give evidence and be cross-examined. The judge then makes a binding order.

Documents before the First Appointment

- Form E with supporting documents.
- A concise statement of issues.
- A chronology.
- A questionnaire or confirmation that no further information is required.
- Form G stating whether the case is ready to proceed as an FDR.
- Costs estimates, usually Form H before hearings and more detailed costs information before final hearing.

The FDR

The FDR is usually one of the most important hearings. It is designed to encourage settlement. Offers, proposals and responses are put before the FDR judge. If agreement is reached, the court may approve a Consent Order. If not, the case is usually listed for final hearing and parties may be required to make open proposals.

Final hearing

A final hearing is generally a last resort. It may be necessary where there is no realistic settlement, significant factual dispute, non-disclosure, disputed valuation evidence or a genuine legal disagreement. Final hearings are often expensive and stressful, but they may be necessary where one party refuses to negotiate fairly.

Interim Financial Arrangements

Financial arrangements may be needed while the divorce and financial settlement are ongoing. These are temporary arrangements and do not necessarily determine the final outcome.

- Mortgage or rent payments.
- Household bills, utilities and insurance.
- School fees and children's expenses.
- Interim spousal maintenance, sometimes called maintenance pending suit.
- Interim periodical payments for children in appropriate cases.
- Legal Services Payment Orders where one party cannot reasonably fund legal representation and the other has the resources to assist.

Interim arrangements may be agreed voluntarily or determined by the court. The court will look at immediate needs, available income and the practical position pending final resolution.

The Family Home

The family home is often the most important asset emotionally and financially. There is no automatic rule that it must be sold, and no automatic rule that one person can keep it. The outcome depends on needs, affordability, mortgage capacity, children's housing needs and the overall asset picture.

Possible outcomes

- Sale now, with proceeds divided equally or unequally.
- Transfer to one party with the other receiving a lump sum, pension share or offsetting assets.
- Deferred sale, allowing one party and the children to remain for a period before sale.
- Sale is postponed until a trigger event.
- Charge back to the other party, meaning one party receives a future sum or percentage when a trigger event occurs.

Trigger events in deferred sale cases

- The youngest child reaching 18.
- Completion of full-time secondary or sometimes tertiary education.
- The occupying party remarrying.
- The occupying party cohabiting for a defined period.
- The property becoming unaffordable or no longer required for the children.
- Death of the occupying party.
- Further order of the court.

Home Rights Notices

If the family home is owned solely by your spouse, you may still have rights to occupy it because it was the matrimonial home. These rights may be protected by registering a Home Rights Notice with HM Land Registry. Home rights do not create a financial interest in the property, but they can help protect occupation and make it harder for the owner to sell or mortgage the property without the issue being addressed.

Joint tenants and tenants in common

If the property is jointly owned, it may be held as joint tenants. This usually means that if one owner dies, the other automatically receives the whole property by survivorship. During separation, some clients choose to sever the joint tenancy so the property is held as tenants in common. This means each person's share can pass under their Will rather than automatically to the other owner. You should take advice before doing this and review your Will at the same time.

Practical point

The court will prioritise appropriate housing for dependent children, but it must also consider whether each party can be housed and whether any proposed arrangement is affordable.

Savings, Investments, Contents and Debts

Financial settlement is not limited to the family home. All assets and liabilities must be considered to understand the true financial position.

Savings and investments

- Savings accounts, ISAs and fixed-term deposits.
- Stocks, shares, bonds, unit trusts and managed portfolios.
- Cryptoassets and digital wallets.
- Premium Bonds.
- Investment properties and rental income.
- Endowment policies, life policies and other investment-linked products.

Endowment policies

An endowment policy may have a surrender value, maturity value and life insurance element. Options may include surrendering it and dividing proceeds, assigning it to one party, maintaining it until maturity, or selling it if a market exists. Specialist financial advice may be required.

Contents and personal belongings

Most couples resolve contents by agreement because the legal costs of arguing about individual items can exceed their value. If necessary, the court can consider contents, chattels, vehicles, jewellery, artwork and collections. Personal belongings and items owned before the marriage may often remain with the person who owned them, but valuable items should still be disclosed and considered.

Debts and liabilities

Debts are taken into account alongside assets. Joint debts can be particularly important: a creditor may pursue either borrower for the whole amount, regardless of any private agreement between spouses. The settlement should therefore deal clearly with who is responsible for paying liabilities and, where possible, how joint liabilities will be refinanced or discharged.

- Mortgages and secured loans.
- Credit cards and overdrafts.
- Personal loans and family loans.
- Tax liabilities.
- Directors' loans, guarantees and business borrowing.
- Litigation funding or legal costs liabilities.

Pensions

Pensions are often among the most valuable assets in a marriage. They should not be overlooked simply because they are not immediately accessible. A pension may be worth more than the family home, particularly where there are defined benefits, NHS, Civil Service, Armed Forces, police, teacher or other public sector schemes.

How pensions are valued

The starting point is usually the Cash Equivalent Transfer Value (CETV). However, CETVs can be misleading, especially for defined benefit schemes. In complex cases, a pension expert, often called a Pension on Divorce Expert (PODE), may be instructed to advise on how to achieve equality of capital value or equality of retirement income.

Option	Explanation	Common issues
Pension sharing order	A percentage of one pension is transferred to the other party, creating separate pension rights.	Often used to achieve retirement security. Implementation fees and scheme rules must be checked.
Pension offsetting	One party keeps more pension while the other receives more capital, such as equity in the home.	Difficult because pension value is not the same as cash. Expert input may be needed.
Pension attachment order	Part of future pension income or lump sum is paid to the other party.	Rarely used. It may end on death or remarriage and gives less independence than sharing.

Pensions already in payment

A pension sharing order can still be made where a pension is already in payment, but the implications can be more complicated. Tax, scheme rules, income needs and actuarial advice may all be relevant.

Future contributions

Once a pension is shared, the receiving spouse has a separate pension fund or pension credit. Future contributions made by the original member are usually for that member alone and do not benefit the former spouse.

Key point

Do not agree to ignore pensions without advice. Pension offsetting can look simple but may produce unfair results if the difference between capital value and retirement income is not properly understood.

Spousal Maintenance

Spousal maintenance is ongoing financial support paid by one spouse to the other after separation or divorce. It is separate from child maintenance. Whether it is appropriate depends on need, income, earning capacity, standard of living, affordability and the possibility of achieving independence.

How is spousal maintenance calculated?

There is no fixed formula. The court looks at the receiving party's reasonable budget, their income and earning capacity, and the payer's ability to meet the shortfall after meeting their own reasonable needs. The court will also consider whether the receiving party can increase their income over time.

Types of maintenance order

- Maintenance pending suit: interim maintenance while proceedings continue.
- Term maintenance: payments for a defined period, sometimes with a bar on extension.
- Joint lives maintenance: payments until death, remarriage or further order, now less common than time-limited orders where independence is achievable.
- Nominal maintenance: a small order, often £1 per year, preserving the ability to apply for more in future if circumstances change.
- Capitalised maintenance: a lump sum paid instead of ongoing monthly payments, allowing a clean break.

Variation

Spousal maintenance can usually be varied if circumstances change. The payer may seek a reduction if income falls or responsibilities change. The receiving party may seek an increase if needs rise or income falls. The court can increase, reduce, end or capitalise maintenance, depending on the circumstances.

Clean break

Where possible, the court considers whether a clean break can be achieved so that neither party has ongoing financial claims against the other. A clean break may be immediate or deferred. In some cases, ongoing maintenance is necessary because one party cannot meet their income needs independently.

Child Maintenance

Child maintenance is usually dealt with separately from spousal maintenance. In most cases, the Child Maintenance Service (CMS) has primary responsibility for calculating child maintenance where parents cannot agree.

Can the court make a child maintenance order?

The court can make a child maintenance order by agreement, but after 12 months either party can usually apply to the CMS instead. The court retains jurisdiction in certain cases, including school fees, disability-related expenses, step-children in some circumstances, children over 18 in education, and high-income cases where the CMS maximum assessment has been reached.

CMS calculation overview

Child maintenance is usually calculated by the Child Maintenance Service (CMS) based on the paying parent's income and other relevant factors, including the number of children and any shared care arrangements. As the rules and calculations may change, you should always refer to the latest guidance published by the Child Maintenance Service on the GOV.UK website before relying on any estimated figure.

Consideration	What you need to know
Shared care	The number of nights the child stays with the paying parent can reduce the CMS calculation.
School fees	The court may deal with school fees separately from ordinary child maintenance.
High income	Where income exceeds the CMS maximum, a top-up order may be considered.
Duration	Child maintenance commonly continues until 16, or 20 if the child remains in qualifying non-advanced education. Different arrangements may apply for university or adult children.

High Net Worth and Business Owners

High net worth and business owner cases often require a more detailed approach. The assets may be valuable but illiquid, tax-sensitive, held through corporate structures or dependent on one party's ongoing work. The aim is usually to achieve fairness without unnecessarily damaging a business or income-producing structure.

Common assets and structures

- Private limited companies.
- Partnerships and LLP interests.
- Professional practices.
- Property development businesses.
- Investment companies and family investment companies.
- Property portfolios and SPVs.
- Share options, carried interest, growth shares and EMI schemes.
- Trust interests and family wealth structures.
- Offshore accounts, international property and overseas entities.
- Directors' loan accounts, retained profits and complex remuneration arrangements.

How the court may approach a business

The court will consider the value of the business, the income it can produce, whether it is matrimonial or pre-marital, whether it is saleable, the impact of extracting funds, tax consequences, liquidity and the effect on employees and ongoing trading. A business is not treated exactly like cash unless it can realistically be converted into cash.

Common outcomes

- The business owner retains the business, with the other spouse receiving offsetting assets.
- A lump sum is paid immediately or by instalments.
- A property or pension adjustment balances the retained business value.
- A structured buy-out is ordered or agreed over time.
- A sale of all or part of the business is considered, but this is less common where the business is the main income source.

Business owner warning

Retained profits, directors' loan accounts, dividends and personal expenditure through the business will be scrutinised. It is important that disclosure is accurate and that personal and business finances are clearly separated.

Valuation, Tax and Liquidity Issues

Valuation is often one of the most disputed parts of a financial case. Privately owned businesses, property portfolios, shareholdings, pensions and trusts may all require specialist evidence.

Business valuation methods

- Earnings-based valuation, often using maintainable earnings.
- Net asset valuation, often relevant for investment or property companies.
- Market valuation, where comparable sales or transactions are available.
- Discounted cash flow analysis in some cases.
- Assessment of goodwill, especially for professional practices or owner-managed businesses.

Why valuations differ

Valuations may differ because of assumptions about profitability, market risk, owner dependence, minority shareholding discounts, tax, debt, liquidity, future maintainable earnings and whether the business could be sold in practice. In court proceedings, the parties may jointly instruct an expert accountant or valuer.

Tax

Tax can materially affect settlement. Capital Gains Tax, income tax, corporation tax, dividend tax, Stamp Duty Land Tax, Inheritance Tax issues and overseas tax may all be relevant. A settlement that looks fair before tax may be unfair after tax. Tax advice should be obtained where needed.

Liquidity

A person may appear wealthy on paper but have limited liquid cash. The court can consider whether assets can be realised, whether borrowing is possible, whether extracting funds would damage a business, and whether payment by instalments is more realistic.

Trusts, International Assets and Third Parties

Trusts

Trusts can be important in high net worth cases. A party may be a beneficiary, settlor, protector or trustee, or may have received trust distributions. Trust documents, accounts, letters of wishes, historic distributions and trustee correspondence may be relevant. The court will consider whether the trust is a resource available to a party, but each case is fact-specific.

International assets

Where assets are abroad, specialist advice may be needed about valuation, disclosure, tax, enforcement and whether an English order will be recognised in the relevant country. Exchange rates, foreign mortgages, overseas company rules and local property law can all affect settlement.

Third parties and intervenors

Sometimes a third party claims an interest in an asset. This might be a parent who contributed to a deposit, a business partner, a company, a trustee, a lender or creditor. The court may need to determine the third party's interest before deciding the financial settlement.

- Family members claiming loans or beneficial interests.
- Companies holding property or business assets.
- Trustees asserting trust ownership or discretion.
- Business partners affected by proposed orders.

- Mortgagees, lenders or creditors with security over assets.

Conduct, Non-Disclosure and Intervenors

General marital conduct is rarely relevant to financial settlement. The court is not usually concerned with who was to blame for the breakdown of the marriage. However, financial conduct and litigation conduct can matter.

Conduct that may be relevant

- Hiding assets or income.
- Dissipating money deliberately to defeat a claim.
- Transferring assets to family members or companies without proper explanation.
- Failing to comply with court orders.
- Providing misleading disclosure.
- Running up unnecessary legal costs through unreasonable litigation behaviour.
- Serious conduct that it would be inequitable for the court to disregard.

Where non-disclosure is suspected, the court has a range of powers. It can require further disclosure, order questionnaires to be answered, direct third party disclosure, draw adverse inferences, make costs orders and, in appropriate cases, revisit orders made on the basis of non-disclosure.

Settlement Outcomes and Examples

Every case turns on its own facts. The following examples are illustrative only and are not predictions of outcome.

Scenario	Possible outcome
Family home focused case	One party retains the home, possibly with a transfer of equity, mortgage refinance and offsetting payment to the other.
Business owner case	Business owner retains the company. The other spouse receives cash, property, pension share or instalments to offset retained value.
Property portfolio	Properties may be divided, sold, transferred or retained with an equalisation payment after tax and debt are considered.
Income needs case	Spousal maintenance may be paid for a period, with a plan for transition to independence where achievable.

Pension-heavy case	Pension sharing order used to balance retirement income or capital, often with expert pension advice.
Clean break case	Capital, property and pension claims are resolved with no ongoing spousal maintenance.
Deferred sale case	Home retained temporarily for children, with sale or charge back on trigger events.

Myths and reality

Myth	Reality
Everything is automatically split 50/50.	There is no automatic rule. Equality may be considered, but fairness depends on needs, resources and circumstances.
The business will be sold.	Most businesses are retained by the owner where they are the income source, but value and income are considered.
Divorce ends financial claims.	Financial claims usually remain open unless dismissed or resolved by a court order.
Bad behaviour means I will get more.	General marital behaviour is usually irrelevant. Financial misconduct can matter.
We agreed between ourselves, so we do not need a court order.	A private agreement may not provide finality. A Consent Order is usually needed.

Alternatives to court

Most financial cases settle without a contested final hearing. Non-court dispute resolution can reduce cost, delay and stress. It can also preserve privacy and allow more creative solutions.

Option	How it works	When it may help
Negotiation	Solicitors exchange disclosure, advice, offers and proposals.	Suitable where both parties engage constructively and disclosure is reliable.
Mediation	A neutral mediator helps both parties discuss settlement. The mediator does not give legal advice to either party.	Helpful where both parties can negotiate safely and transparently.
Private FDR	A privately appointed specialist gives an evaluative indication similar to a court FDR.	Often useful in HNW or complex cases where time, confidentiality and specialist input matter.
Collaborative law	Both parties and their collaboratively trained lawyers meet together and commit to resolving matters without court.	Suitable where both parties want a non-confrontational process and are willing to disclose fully.
Arbitration	A specialist arbitrator is appointed to determine the dispute. The decision is intended to be binding.	Helpful where speed, confidentiality, specialist expertise and control over timetable are important.

Mediation Information and Assessment Meeting (MIAM)

Before issuing most financial remedy applications, a person is usually expected to attend a MIAM unless an exemption applies. Exemptions may include domestic abuse, urgency, previous MIAM attendance, bankruptcy issues or other circumstances set out in the rules. The mediator assesses whether mediation may be suitable.

Collaborative law

In collaborative law, discussions usually take place in four-way meetings. The lawyers and clients agree to work respectfully and constructively. If the process breaks down, the collaborative lawyers cannot usually represent the parties in contested court proceedings, which encourages commitment to settlement.

Family arbitration

Arbitration is a private process in which the parties appoint an arbitrator to decide all or part of the dispute. It can be faster and more flexible than court. The parties may choose an arbitrator with the right expertise, set a tailored timetable and limit issues to reduce cost. It is often attractive in complex or high value cases.

Separation Agreements, Consent Orders and Clean Break Orders

Separation agreements

A separation agreement records financial arrangements where parties separate but do not immediately divorce, or where they want to formalise arrangements before a court order can be made. It can cover property, bills, debts, maintenance, children's expenses and other financial arrangements.

A separation agreement is not exactly the same as a final court order. However, it may carry significant weight if both parties provided full disclosure, took independent legal advice, entered into it freely, and the terms were fair in the circumstances at the time.

Consent Orders

If an agreement is reached during divorce, solicitors can draft a Consent Order and submit it to the court for approval. The court will also require a Statement of Information summarising the parties' financial circumstances. Once approved and sealed, the Consent Order becomes legally binding.

Clean break orders

A clean break order dismisses future financial claims between spouses, either immediately or after implementation of agreed terms. It is particularly important where parties do not want future claims for capital, property, pension or maintenance. A clean break is not always possible, especially where ongoing maintenance is needed, but it should always be considered.

Practical point

Even if there are no assets to divide, a clean break order may still be advisable to dismiss future claims where appropriate.

Costs, Funding and Timescales

Costs

In financial remedy proceedings, each party usually pays their own legal costs. However, the court can make costs orders where conduct justifies it, including failure to disclose, non-compliance with orders, unreasonable litigation conduct or refusal to negotiate sensibly. Costs information is routinely exchanged during proceedings so the court and parties can consider the impact of costs on settlement.

Funding options

- Private payment from income or savings.
- Family assistance or loans, properly documented.
- Litigation funding loans.
- Legal Services Payment Orders in appropriate cases.
- Costs allowances from available resources by agreement or court order.

Typical timescales

Stage	Indicative timeframe
Voluntary disclosure	Usually 1 to 3 months, depending on document availability and complexity.
Negotiation or mediation	Often 2 to 6 months, but can be faster or slower.
Court proceedings to FDR	Often around 6 to 9 months, depending on court availability and complexity.
Court proceedings to final hearing	Often 9 to 18+ months. Complex HNW, business, trust or international cases can take longer.
Divorce process	Minimum period is usually just over 6 months, because of the 20-week and 6 weeks + 1 day waiting periods.

These are broad estimates only. Urgent interim applications, valuation disputes, non-disclosure, complex pensions, international assets or third-party issues can all affect timing.

Frequently Asked Questions

Will I get half of everything?

Not necessarily. Equality may be relevant, but the court looks at needs, resources, children, asset source and fairness.

Do I have to leave the family home?

Not automatically. Occupation and ownership are separate issues. If the home is in your spouse's sole name, home rights may need to be protected.

Can my spouse sell the house without me?

If the property is jointly owned, they usually cannot sell without your involvement. If it is in their sole name, a Home Rights Notice may help protect your position.

What if my spouse owns a business?

The business must usually be disclosed and may need to be valued. It may be retained by the owner with the other spouse compensated from other assets or structured payments.

Can my spouse hide assets?

They are under a duty of full disclosure. If there are concerns, further questions, documents, third party evidence or court orders may be needed.

Do I need to go to court if we agree?

You may not need contested hearings, but you should usually ask the court to approve a Consent Order to make the agreement binding.

What happens to pensions?

They can be shared, offset against other assets, or occasionally attached. Expert advice may be needed.

Can maintenance be changed later?

Spousal maintenance can often be varied unless there is a clean break or a non-extendable term. Child maintenance is often dealt with through the CMS.

How long will it take?

Simple agreed cases may resolve within months. Complex or contested cases can take 9 to 18 months or longer.

What You Should Prepare

Preparing documents early helps your solicitor advise you and helps avoid delay.

- Last 12 months of statements for all bank, savings and investment accounts.
- Details of accounts closed in the last 12 months.
- Latest mortgage statements and property details.
- Property valuations or estate agent appraisals if available.
- Payslips for the last 3 to 6 months and latest P60.
- Details of bonuses, commission, benefits in kind and share schemes.
- Tax returns, tax calculations and HMRC documents.
- Pension statements and CETVs.
- Credit card, loan and finance agreements.
- Company accounts, management accounts and business tax returns.
- Shareholder agreements, partnership or LLP agreements.
- Directors' loan account information.
- Evidence of inheritance, gifts or pre-marital assets.
- Insurance policies, endowments and investment-linked products.
- Details of valuable contents, vehicles, jewellery, artwork or collections.
- Existing agreements, including pre-nuptial, post-nuptial or separation agreements.
- A draft monthly budget for yourself and any children living with you.

Contact us

If you would like advice about the financial issues arising from divorce or separation or have any questions about the information contained in this guide, our Family Law team would be pleased to help.

To arrange an initial consultation, please contact us:

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