Teachers Financial Planning

Splitting up: divorce and your finances

A guide to managing your finances during divorce.

The end of a marriage is a difficult time. Not only do you have to deal with the emotional impact and sudden shift in routine, but there is also likely to be a number of financial matters that need to be attended to.

Whether you have been married for decades or just a few years, splitting up the personal side of your life often means disentangling a web of interconnected financial arrangements too. So where do you start?

Your first thought may be to see a solicitor. But it's important to give it some thought before your solicitor starts clocking up billable hours.

When it comes to dividing property after a divorce, the law dictates that:

- the court must put the welfare of any children under the age of 18 first
- you must be truthful about your income, earning power, property and finances.

The court in question has the power to examine:

- both your incomes and earning capacities
- both your responsibilities in the future
- the standard of living you had and the contribution you made to your relationship before you broke up
- how old you both are
- how long you've been together
- if either of you have any physical or mental disability and will lose any benefits after you break up
- any debts.

The courts can also order:

- the transfer of property from one partner to the other, thereby guaranteeing that a home is provided for the children
- the sale of property, so that you can split the money resulting from this between you.

Court orders can also be issued on the following:

- maintenance payments, meaning that one partner will have to make regular payments to the other partner after the separation
- lump sum payments, meaning that one partner will have to make a one-off payment to the other partner to even up the relative wealth of each party
- payments relating to pensions.

The majority of these points require you to have accurate and up-to-date information about all aspects of your finances. Not having an accurate idea of your financial position or not being able to adequately prove this position is not the optimum place to be while just about to enter a process where your assets are going to be scrutinised.

Contact us today to talk about your divorce.

Before you split up

If you're starting to think that your relationship isn't working out, ask us to do a stock take of what assets and liabilities you have - both separately and jointly.

It will be needed as part of your financial disclosure if you do decide to break up, and will help to prepare you, just in case.

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Assets can include:

- family home
- any other property
- pensions
- savings and Investments
- value of life policies
- any potential inheritances
- cars, art, antiques or other items of value
- your salary, any benefits and your spouses or partners salary or ability to earn.

Liabilities can include:

- mortgages or secured loans
- unsecured loans, credit cards, overdrafts
- debts to family or friends
- potential child support or maintenance to your current partner or children
- child support or maintenance payments to a previous spouse or partner
- any promises made or commitments to others, such as paying for care home fees for elderly parents or other relatives, school fees or support for children through university.

This list is not exhaustive, but gives an indication of all the things that need to be taken into consideration before any decision is made on how it will be split after you break up.

Ideally, you and your spouse or partner will sit down together and work out an amicable agreement that is fair to everyone. However, in practice, this doesn't often happen so the matter is either decided by 2 lawyers battling it out between them, or it is decided by the divorce courts.

Talk to one of our expert team about financial planning.

What does the law say?

As you may imagine, the body of law surrounding divorce and the separation of assets can get complicated. Whilst some aspects of the law apply to the whole of the UK, there are some which only apply to those in England and Wales, and others which only apply in Scotland.

As a general rule, in both jurisdictions, the interests of any children are the priority. After that, a lot will depend on personal circumstances. Judges have quite a bit of individual discretion when it comes to making orders about who gets what, but the overriding principle is that both parties should aim for something that is fair.

The courts have laid down three principles to be applied on divorce:

- **sharing:** marriage is a partnership and so the starting point is that the matrimonial assets should be divided equally
- **needs:** equal division will take into account future income needs and housing needs
- **compensation:** this principle is less clear-cut than the proceeding 2, but can be seen as an attempt to compensate individuals who did not pursue a career in order to stay at home and raise children, and are subsequently left in a disadvantageous position after the divorce.

Contrary to popular belief, this issue of fairness applies whether you have negotiated between yourselves directly, instructed a lawyer to negotiate, chosen mediation or simply gone through the divorce courts.

Is it really that complicated?

Unfortunately, the answer is probably yes. Let's take the example of the family home.

If you aren't married then it is comparatively easy to work out who owns what. Even if you live together, a non-owner will not be entitled to a financial share in the property unless a legal agreement exists.

If you are married then it is far more complex.

The property can be owned in a number of ways: by one of you, jointly by both of you or by someone else entirely, such as a trust or family member. When you split up, the following are all possible scenarios:

- **ownership remains the same**
  one of you is given the right to stay in the property until your children are 18 or finish university, for example
- **ownership is transferred to one person**
  the other may choose to give up their share in return for a larger share of a pension or savings
- **ownership is transferred to one but the other retains interest**
  the interest can be cashed in as a lump sum or fixed percentage when the property is sold
- **the property is sold**
  the proceeds are split between you (following the deduction of any mortgage repayments, estate agents and legal fees).

Get help

Even the most financially savvy person may have difficulty working out what would be a fair division when the emotional aspect of divorce is added into the equation. This is why it helps to have the cool clear head of a financial adviser to help you find the best - and fairest way forward.

Financial advisers offer expertise that can turn out to be very important during the period of personal and financial upheaval that a divorce usually entails. We can help you make sure you have the right information when you need it and help take the right steps into the next stage of your life.