



## Teachers Financial Planning

### Financial planning and divorce

This guide helps you protect yourself financially and ensure the divorce process is as smooth as is practicably possible.



Going through a divorce is never easy and can be incredibly stressful. Recent estimates suggest that 42% of marriages in England and Wales end in divorce. If you find yourself in this position, there are some important initial considerations.

#### Financial considerations

As soon as you know you are going to separate from your partner you should seek to agree any urgent, short-term financial matters with them as soon as possible. If you cannot agree, it is advisable to seek legal advice as soon as you can.

#### The family home

How the value of your home is divided will depend on your circumstances, so it is important to know how your home is owned before you can agree how to split it.

Generally, the property will either be owned by one of you, jointly by both of you or by someone else entirely, such as a trust or family member. Depending on your circumstances, the courts may order:

- **Ownership remains the same**  
But one of you is given the right to stay in the property, for example until your children are 18 or finish university.
- **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 agent or legal fees).

#### Home rights if you are cohabiting

The non-owner in a cohabiting couple in England and Wales (there are separate rules for Scotland) can choose to make contributions towards the mortgage or running of the home. However, they will not be entitled to a financial share unless a legal agreement exists. The owner will also be able to evict the other person without a court order, rent or sell the property without the non-owner's agreement or take out a loan without the other's consent.

#### Other financial assets

If you are concerned that your ex-partner may dispose of, transfer or sell assets which would result in an unfair settlement, you can apply to the court for an injunction (interdict in Scotland). It may not be as simple as splitting savings and investments equally, as you may find that you need to use savings to settle debts or pay bills to avoid accruing debts. This is a complex area of law and you should seek professional advice as soon as you can.

#### Pensions

Pensions are often the next largest asset after the home and attention should be paid to how they are divided. Options include:

- **Pensions offsetting**  
Where you balance how much the pension is worth against another asset, such as the family home.
- **Pension earmarking**  
Where you can arrange to have a portion of your pension paid to the other party once it is in payment, or vice versa.
- **Pension sharing**  
This involves splitting a pension into two new funds, giving each partner a pension pot for the future.



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## Maintenance payments

In England and Wales, spousal maintenance is an amount awarded by the courts to be paid by the ex-partner with the higher income to the other on divorce or dissolution. It is only awarded if one partner can't support themselves without payments from the other. The amount depends on the recipient's needs, income and ability to earn income.

In Scotland, maintenance is called ailment up until the point of divorce, at which point maintenance comes to an end to provide for a 'clean break', if not at an earlier financial settlement. Periodical allowance is normally only paid when there aren't enough assets for a 'clean break' settlement.

Maintenance stops if the spouse or civil partner remarries or enters another civil partnership. Maintenance for children does not have to involve the courts and is worked out separately from spousal maintenance.

## Child maintenance

Child maintenance can be used to pay for clothing, food and other essentials. You can arrange child maintenance payments between yourselves or, if you can't agree, you can try mediation. If there's a breakdown in communication you may need a statutory arrangement, in which case the Child Maintenance Service will work out the payments for you.

## Insuring maintenance payments

If you receive maintenance payments you should consider insuring the payments so that you continue to receive them when your ex-partner dies. This involves taking out a life insurance policy on your ex-partner's life.

## The business

Valuing and dividing a privately owned business is challenging and you and your ex-partner should seek professional advice to establish how much the business is worth. It is often the value of a business that causes the most friction but courts can be flexible and it is possible to share the income or divide shares.

## What happens to your will?

When you divorce, your ex-partner is omitted from your will. This means that no gifts will pass to them and they should probably not act as executors of the will. These gifts will usually revert back to the estate.

## Tax and divorce

Under existing tax rules, gifts between husband and wife or civil partners are not liable to capital gains tax (CGT). However, once divorce proceedings are underway, the transfer of assets may attract CGT.

## CGT and year of separation

If you were living together at some point during the tax year in which you separated you can transfer assets between you at any time in that tax year at no gain/loss.

If a transfer occurs after the end of the tax year that you stop living together, there are rules to decide the date of disposal and the amount on consideration on disposal. These rules are complicated and depend on your circumstances.

## Financial advice

We can help and offer advice on your finances during divorce. Please contact us to find out more and discuss your needs.



## Important information

FCA regulation applies to certain regulated activities, products and services, but does not necessarily apply to all tax planning activities and services. The FCA does not regulate advice and services in respect of divorce unless related to a specified investment or policy such as pensions or life assurance.

The way in which tax charges (or tax relief, as appropriate) are applied depends upon individual circumstances and may be subject to change in the future.

This document is solely for information purposes and nothing in this document is intended to constitute advice or a recommendation. You should not make any

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