

SEPARATING FROM YOUR SPOUSE OR CIVIL PARTNER

What are the main financial issues arising on separation?

There are two separate financial issues to be sorted out. One is the question of ongoing financial support including child support. The other is the question of how to divide the property accumulated during the course of the marriage or civil partnership. The principle is that matrimonial or partnership property should be divided fairly between the spouses or civil partners, but the definitions are complex and every case is different.

Written Separation Agreement – why bother?

Most couples want to end their relationship with the minimum of acrimony. We try to negotiate agreement for you on financial issues, always taking account of what you are entitled to from the assets (property, investments, savings, pensions) you both own. Your partner will require separate legal representation. If agreement can be reached we will draw up a legally binding separation agreement which you can both sign. This allows the divorce or dissolution of civil partnership to proceed immediately following the necessary period of separation without any implication of blame and with a minimum amount of difficulty and expense. Unfortunately, if there is a breakdown in negotiation, or one party refuses to engage in negotiation, the matter may require to be determined by a court.

What financial information is usually required?

Details of your and your partner's:

- Income from employment, maintenance, tax credits, investment income, any benefits etc
- Expenditure for housing costs, insurance premiums, and all household costs
- Assets - family home, endowment policies, savings, investments, pension etc
- Liabilities – mortgage, bank loans, car loans, credit card debts, and any other debts
- Any inheritances, gifts or assets owned prior to marriage/civil partnership

Who has the right to stay in the family home?

Normally both husband and wife or both civil partners have occupancy rights in the family home. It usually does not matter which of the couple is owner or tenant. Both have the right to remain in the house. If there is a risk to the physical or mental welfare of one of a couple or any children caused by the behaviour of one of the parties then the court can be asked to exclude the person causing the risk from the family home.

While a couple is married or in a civil partnership neither can automatically insist that the house is sold. In a divorce or dissolution court action one of the couple can ask the court for continued occupancy rights or transfer of title or tenancy as part of the overall financial settlement.

Who can ask for financial support?

When a couple separate and one is working and the other is not or is on a lower income, the one who is worse off may ask their partner for financial support called aliment (maintenance), usually paid weekly or monthly. The amount depends on the needs and resources of both households. The one who has left the family home can be asked to pay towards specific outgoings to do with the house, for example, mortgage repayments.

If children are involved, also have a look at [Children of Separated Parents](#)