

Financial Implications of Divorce



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Everything you need from this sector.'* Family Law Client

We can offer help and advice to resolve financial issues and put agreements and arrangements in place.

 **Hegarty** Solicitors



'Very professional. Sympathetic towards the client, efficient and understand the customers' needs.'

Family Law Client

One of the biggest concerns when you are considering separating or divorce can be the financial implications. This can be a major point of discussion during the divorce itself, and it is important to keep discussions over finances separate from those regarding the arrangements of your children.

The sorting out of the financial matters is referred to as 'Financial Orders'. The law relating to this area is quite flexible and allows the Courts to look at each individual case and decide accordingly on the financial settlement.

Do I need to appoint a solicitor?

No, however it may be better to instruct a solicitor to act on your behalf. Most matters can be settled without the need to go to Court and it will generally be better for the parties involved, and certainly less expensive.

Even if you have come to an informal agreement with your spouse, we strongly recommend you ask a solicitor to check the agreement. You could be putting yourself in a vulnerable position, and remember that both your circumstances could change in the future.

You will also need a solicitor if you wish to have a binding document containing the terms of your agreement.

If it goes to Court, what factors do they take into account?

If the financial matters do reach Court, they take into account the following factors:

- the welfare of any children of the family who are under 18 years old.
- the income, earning capacity, property and resources of each person.
- the financial needs, obligations and responsibilities of each person.
- the standard of living enjoyed by the family before the breakdown of the marriage.
- the age of each person, and the duration of the marriage.
- any physical or mental disability.
- the contribution made by each person to the welfare of the family, including looking after the home and bringing up children.
- the conduct of each person, but only if it was so bad it would be unfair to ignore it.
- any serious disadvantage to either person that would be caused by ending the marriage.

Do I have to tell my partner about all my assets?

It is important to realise that the starting point in settling the finances is a full and frank disclosure of all of your assets and liabilities, income and outgoings. If something is not declared, but discovered later, it will not help your case and could well count against you.

Are financial issues dealt with before the divorce is finalised?

Any immediate problems and temporary maintenance arrangements should be resolved at the early stages of the divorce. However, often even when you get to the Conditional Order stage of the divorce the discussions in relation to property and finances will still be in the very early stages.

You must however be wary of obtaining your Final Order before financial matters have been resolved because you would then lose your entitlement to certain widow's benefits under pension schemes.

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For more information visit [hegarty.co.uk/divorce](https://www.hegarty.co.uk/divorce)

What is maintenance?

Maintenance is the term used for when a settlement includes some form of regular payment.

Where it is for the upkeep of a child, it is called Child Maintenance and can be either for a fixed term (for example until the child is 18), or ongoing and reviewed on a regular basis. If it is for the benefit of the other spouse, it is called Spousal Maintenance.

What about pensions?

The law allows pensions to be shared on divorce, but it is a complicated area of law. Depending on the value of pension funds, you may need to take specialist financial advice, and we will work with you and your financial advisers to come up with the best options for you.

What happens to the house?

Usually the house is a family's main asset, and in line with the need to consider the welfare of any children, the Court would consider it important to ensure that they have a suitable home.

The issue of the house could be settled in a number of ways. It could be sold, and the proceeds divided between the parties, or one party could keep the house and pay a sum of money to the other. In some cases, one party stays in the house, with the other maintaining an interest in it that is given to them when the house is sold.



'Purely professional in all matters, I have already recommended Hegartys to friends.'

Family Law Client



Legal terms

Anchor Statement

In the collaborative process; a statement both parties are encouraged to write explaining why they wish to deal with matters in a Collaborative way.

Collaborative Law

Very simply, the couple who are separating, and their lawyers, agree in writing to try and reach a reasonable settlement without going to court. The couple and their lawyers will have face-to-face meetings to talk through all the issues and come to an agreement. More information about Collaborative law can be found on our Collaborative law page or at the Peterborough Collaborative Law Group website.

Conditional Order (formally Decree Nisi)

Following a divorce petition, a conditional order is a document that shows that the court is satisfied that all legal requirements have been met to proceed with a divorce. At this stage the divorce is not complete; there is a six week and one day minimum mandatory period between grant of conditional order and the final order.



Legal terms

Final Order (formerly Decree Absolute)

This is the final stage of divorce and the legal document that ends a marriage.

Participation Agreement

In the collaborative process a Participation Agreement is the contract which starts the formal engagement in the collaborative law process and is a way of keeping both parties focused. Once signed it confirms that if the parties have to resort to the Court process to resolve issues they will both have to seek legal advice from alternative Lawyers.

Applicant (formerly Petitioner)

The person who starts the divorce proceedings.

Respondent

The party against whom the petition is filed, the other spouse in divorce proceedings.

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Exceptional Service

I cannot recommend these solicitors enough. Superb service from start to finish. They answered queries extremely promptly as well as dealing with problems that arose concisely and constructively. I will definitely use them again in the future and will highly recommend them to all who ask!



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Peterborough

48 Broadway
Peterborough, PE1
1YW

01733 346 333

Stamford

10 Ironmonger
Street
Stamford, PE9 1PL

01780 752 066

Oakham

66 South Street
Oakham, LE15
6BQ

01572 757 565

Market Deeping

27 Market Place
Market Deeping,
PE6 8EA

01778 230 120



www.hegarty.co.uk | enquiries@hegarty.co.uk