



CAMPBELL & McCONNACHIE

chartered financial planners

Separation and divorce

Financial management during the dissolution of a relationship.

As well as being a reflection of the deep personal connection between two people, marriage is often a financial relationship. Divorce and separation are highly emotional and it can be difficult to keep that emotion from spilling into other areas.

It is important, however, that both parties try to keep their feelings out of the financial side of dissolving a marriage in order to try and ensure the best possible mutual outcome. If hurt and anger become part of the complex process of dismantling interconnected financial arrangements, neither party is likely to be able to start the next chapter of their life in a positive way.

So, how should you go about financially managing separation and divorce?

Immediate financial concerns

It is important to recognise separation as a time of turbulence and immediately adding financial uncertainty can compound this.

There are several things that should be done to ensure the financial stability of everyone involved is maintained in the immediate aftermath.

Paying the bills

The best initial strategy to take is to leave everything the same until the broader separation process is outlined.

If you know that as long as nothing changes, all of the bills will be paid on time and neither party is going to fall into debt, these arrangements should be maintained. Of course, any strategy needs to have the consent of both parties or further issues will be created.

A common example of this is one party unilaterally changing banking arrangements. Not only is this likely to cause resentment, but often leads to lawyers and legal expenses entering the picture.

Avoiding debt

Another reality of separation is finances are likely to be stretched as a previously singular pie gets sliced in two.



Communication and careful budgeting are important. Often communication will break down after a split, but the issue of financial liability must be discussed rationally. Until the division of assets is agreed, both parties are jointly responsible for debt on joint credit cards or mortgages.

Contact us to discuss your financial situation.

Splitting assets

The main part of the divorce process is the legally-binding division of the relationship's assets between the individuals.

Establishing a financial agreement

If both parties are in agreement then there is no need to file any paperwork or involve any other party; you can simply go ahead and do it. You may need to inform any people or organisations that will be affected by your decision, such as your:

- council tax office
- mortgage provider
- bank (for joint accounts).

Your decision will not be enforceable in court, unless you employ a solicitor to draft a consent order and have it approved by a court. It can be worth doing even if both parties agree so the agreement is legally enforceable.

If both parties agree on part of the distribution but disagree on some parts, external help can be sought to avoid taking the matter to court. You will have to show you have attempted mediation before you are able to apply to court.

Going to court

If no mutual agreement is forthcoming then a court will have to make a financial order as to what shape the division of assets will take.



Separation and divorce

You can only ask the court to do this if:

- you have formally started the legal process of divorce or dissolving a civil partnership
- you have not yet applied for the decree absolute or final order (the legal document that formally dissolves the relationship).

The cost of applying is £225 and attendance of multiple court hearings is required, possibly lasting up to 12 months.

When deciding how assets should be split, the court will look at:

- the length of the marriage or civil partnership
- the age of each party
- standard of living and living expenses
- if one party is the sole breadwinner
- if one party is unable to earn an independent living.

The judge will prioritise arrangements for any children before trying to ensure the disputing parties have no other financial links to each other.

Maintenance

It is uncommon in relationships that both parties earn the same and the disparity can often be substantial.

If this is the case and the person with the lower income is likely to have their quality of life impacted, the court may issue a maintenance order.

This means the person with the higher income will be required to make regular payments to help with the other's living costs.

Usually, maintenance payments are set up in either of the following ways:

- the payments will be made for set period of time
- the payments are made until the receiver dies, remarries or re-enters a civil partnership.

Once set, these payments can be changed or cancelled if the circumstances change, such as getting a job with better pay.

These payments are not the same as child maintenance payments, which are arranged by the child maintenance service.

Property

One of the most emotive and hardest parts of the divorce process is deciding what happens to the family home.

There are four main options for how a family home can be divided:

- the home can be sold and both parties move into other properties – the money raised from the sale is split among them
- one party buys the other out and becomes sole owner of the property
- keep the ownership as it is with one party living in it (usually until children are 18)
- transfer part of the property's value to one party as part of the financial settlement (the person giving up their share may retain a stake so they receive money when the property is sold).

In England and Wales, the court can issue two orders relating to the sale of a family home:

- a *Mesher order* – legally delays the sale until a certain event (such as children reaching 18)
- a *Martin order* – defers the sale but grants one party the right to live in the property.

In Scotland, the value of the home is usually included in the financial settlement. If the home is transferred to one person, both parties must agree on the value at the time of transfer.

Talk to us about your property situation today.

Savings and pensions

After the family home, pension pots and savings are often the biggest assets either party has.

Pensions

In England, Wales and Northern Ireland, the total value of both parties' pension pots is taken into account when splitting assets. In Scotland, only the value that has been built up during the marriage or civil partnership is taken into account.

How different kinds of pension can be divided depends on the pension type. Make sure to seek professional advice.

Savings and investments

The same distinction between Scotland and the rest of the UK that exists for pensions also exists for investments and savings.

Some points to consider:

- the ownership of shares can be transferred to different people using a stock transfer form
- there may be capital gains tax liable if you sell assets for more than you paid for them.

We can help you manage your finances.

Important information

This document is solely for information purposes and nothing in this document is intended to constitute advice or a recommendation. Whilst considerable care has been taken to ensure that the information contained within this document is accurate and up-to-date, no warranty is given as to the accuracy or completeness of any information.