

A survival guide to

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# Living together and breaking up

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## Introduction

This guide is for you if you are in the process of splitting up with your partner who you have been living with. It will be helpful if you are still living together or if one of you has moved out. It will tell you what you need to think about, what the law says, and help you to find ways of agreeing arrangements with your ex. It will also remind you who you need to tell, and explain how to find the help you might need to plan for the future.

This is just one of our resources to help you manage your separation and save you money.

You may also be interested in

- [A survival guide to family mediation](#)
- [A survival guide to sorting out child arrangements](#)
- [How to apply for a child arrangements order without a lawyer](#)
- [A survival guide to home ownership and living together](#)

We know that the next few months are going to be hard. We want to help you find your way through the maze of practical and legal things you need to sort out so that you can avoid common problems, minimise your stress, and use your energy effectively.

This guide is for you if:

- you live in England or Wales, **and**
- you aren't married or in a civil partnership, **and**
- you are in the process of splitting up with your partner who you have lived with.

It will be helpful whether you are still living together or if one of you has already moved out.

It's not for you if you are married or in a civil partnership with the person you are splitting up from. This is because the law about how you divide up and share out any money and property you have is very different. We have another guide to help couples in this situation – [A survival guide to sorting out your finances when you get divorced](#).

It was extremely stressful to start with. I wanted to get everything sorted straight away and couldn't bear the uncertainty of where I would live or how things would work. It all got a bit easier when I accepted that it would take a few months before I would know what the future might look like. **Peter**

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# Breaking up

Breaking up is always painful, and the emotions that you have to cope with when a relationship ends can make it harder to sort everything out. So, it's useful to recognise how you are feeling and how it may affect your ability to come to an agreement.

Someone advised me to start writing down how I was feeling when I got really angry with my ex. It was a really helpful outlet and meant I didn't keep dumping all my anger on my friends, or worse, my grown up children. And it was quite uplifting to re-read later, it showed how far I'd come in this difficult process. **Chloe**

You may be feeling so hurt and furious that you can't imagine agreeing anything with your ex. Deep down, you may want to punish them for everything you are going through. This is a completely normal reaction – but not very helpful. It can waste your time and energy and make things drag on and on. If you have children together, it is even more important that you do your best to avoid this.

You may feel you just want to run away and hide, even if it means leaving loose ends untied. The idea of trying to sort things out fairly may feel just too much if it means negotiating with your ex. But loose ends have a way of tripping you up, and in a few years when you are over the sadness and hurt, you might feel angry and resentful.

Or you may be feeling guilty, rightly or wrongly. You may be tempted to be overly generous so that you don't have to feel any worse. But that's not always a good approach. You need to make

sure that you come to an arrangement that you don't feel angry or resentful about in the future.

Sometimes people feel tempted to retaliate for the hurt they feel by doing something like:

- destroying things,
- changing the locks,
- packing up their ex-partner's stuff and leaving it outside, or
- running away with the children.

These may give a short-term feeling of satisfaction, but in the long run they are unhelpful and often unlawful and you may be committing criminal offences. They will also make relations between you deteriorate further, exactly when you need to start finding ways to agree things.

I moved into my boyfriend's flat about 6 months after we started going out. He carried on paying the mortgage just like before I moved in, but I used to buy all our weekly shopping and pay some of the bills to make it fair. I'd been there 5 years when we split up. After I moved out, I found out that things weren't as fair as I'd thought. Because the house wasn't in our joint names, I wasn't entitled to anything – even though I'd spent the last 5 years buying his food and paying for his gas and electricity! One of my friends told me I might be able to take him to court but, to be honest, I just didn't want anything to do with him any more – it had all turned a bit nasty by the time we broke up. So, I left it. I still feel angry when I think about it. **Carl**

# Your basic legal position



Many people believe that after a couple of years they become common law partners, with the same rights as married couples – but this isn't true! No amount of living together – not 6 months, 6 years or 26 years – will turn your relationship into a common law marriage, because common law marriage in this sense doesn't exist in England and Wales.

If you made a living together agreement, now's the time to dig it out and remind yourselves what you agreed to. If you don't have one, then you and your ex will need to work out a way of dividing jointly held money, dealing with joint debts and how any property should be dealt with. If you have children, you will need to work out how you will parent them together even though you are separating.

## Children

### **Working out how you will care for, spend time with and parent your children**

If you have children together then as parents you share responsibility for sorting out arrangements for your children. It's up to you to make every effort to agree how you will bring them up. If talking is difficult, help is available. We've produced a separate guide for parents to help you to agree

arrangements that work well for everybody, and to find a solution if that is not possible. Take a look at [A survival guide to sorting out child arrangements](#) for more information.

We've also written a guide for parents who have to ask the court for a child arrangements order. If you are in this position go to [How to apply for a child arrangements order without a lawyer](#) for more help.

If you are not sure whether or not you have parental responsibility for your children you can find out more by going to [How to get parental responsibility without a lawyer](#).

## Financial support for caring for your children after you break up

If you have children together, whoever the children spend less time living with and being cared for by will have to pay child maintenance. Child maintenance is money paid by one parent to the other to meet the income needs of their children.

If you divide the care of your children absolutely equally, the law about whether either parent has to pay any child maintenance is less clear – but what amounts to equal care in this context isn't just about the number of nights the children stay with you. If you think you are in this situation you may need some legal advice. See [More help and advice](#).

Child maintenance is paid either until your child turns 16 or until they finish full-time, non-advanced education (A levels, BTEC national diploma), up to their 20th birthday. It is best to try and agree how much the parent doing most

Your basic legal position

of the childcare will receive from the other. You can find out how much child maintenance you should be paying or receiving by using the official [Child maintenance calculator](#) on the GOV.UK website.

## Your basic legal position

If you really can't agree the amount, either of you can apply to the Child Maintenance Service (CMS). You can contact Child Maintenance Options for support by calling 0800 953 0191 – Monday to Friday, 8am to 8pm, or by using their [online form](#). Beware, if you end up needing the Child Maintenance Service (CMS) to deal with the payments, both of you will have to pay fees for that service.

If the children are not actually your children (for example, if they are your ex's children from a previous relationship) you are not financially responsible for them unless you have adopted them. This doesn't mean you can't ask to spend time with them and if necessary apply for a child arrangements order.

Depending on your circumstances, you may be able to make a claim against your ex for financial help for the benefit of any children you have together. You may be able to make a claim for:

- a 'lump sum' of money for one off or occasional capital costs connected to looking after your child, for example, a new car or washing machine, and/or,
- the transfer of capital into a housing fund, that lawyers call "a settlement" (we explain more about this next), or
- regular payments (lawyers call these 'periodical' payments) for the costs of your child's care care if the CMS has declared that your ex earns more than £156,000 gross a year, or if you are claiming money to help with your child's disability or school fees.



Be aware that financial help from your ex, ordered by the court, to create a housing fund for you and the children is just to give them and you a home while you bring them up. It won't give you any share in the property – you don't get to keep it **and** the amount in the fund or 'settlement' will have to be repaid later. But, it does mean you have somewhere for you and the children to live as they grow up. The usual time when the fund has to be re-paid is when your child reaches 18 or finishes their tertiary education up to and including first degree level (to include a gap year).

This area of the law is complicated, so you should get some advice from a good family law solicitor to find out where you stand. Go to the section called [More help and advice](#) on how to find one.

Legal aid may be available for this type of case if you have experienced or are at risk of experiencing domestic abuse or violence. You can find more information on this at [How to get legal aid for a family law problem](#).

## Maintenance – for partners

You won't need to pay any maintenance and won't receive any maintenance for yourself, even if you gave up work to look after children.

If your ex is a very high earner you might be able to apply to court for extra maintenance for your child, and sometimes, some maintenance to cover the cost to you of caring for them. But you can only do this if the Child Maintenance Service tells you that your ex earns more than £156,000 gross a year. This is called "top up" child maintenance and if your ex is a very high earner it is sometimes possible to ask for what is called "carer's allowance" to cover your costs of caring for the child. Be aware though, that it is very rare and only ordered in cases where your ex has a very high income.

## Rented home

If you rent your home and the tenancy is in joint names, you have equal rights to keep it. You will both be legally responsible for paying the rent until the tenancy ends or is transferred into one name only. Be careful though, if either one of you gives notice to quit the whole tenancy comes to an end and none of the family will be able to continue living there. Also, you may be assessed by your local council housing team to have made yourself 'intentionally homeless'. This means the council can say you will not be eligible for re-housing as a homeless person. Deciding whether giving notice to quit is the right thing to do in your situation, and if so when and how to do it, are complicated questions. It is a good idea to get specialist advice to help with these decisions.

Shelter (England) gives advice about rented housing and helps people struggling with bad housing or homelessness through advice, support, and legal services. If you live in England go to [Shelter England](#) for information and advice online and to access Shelter's emergency helpline. If you live in Wales, go to [Shelter Cymru](#).

If the home you rent is a council or housing association tenancy and is in your joint names or your ex's sole name you may be able to apply to transfer the tenancy into your sole name. Speak to your landlord and try to agree the best way of transferring the tenancy. If you cannot reach an agreement you may be able to apply to the family court for an order to transfer the tenancy. If you possibly can, get some help from a family law solicitor to do this. See [More help and advice](#) on how to find one. This option is not available to most private tenants.

If you rent your home privately and the tenancy is in your ex's name only, you have no automatic right to stay if your ex asks you to leave. He or she should give you a reasonable time to find somewhere else – for example, one month.

Try and reach an agreement with your ex about who (if either of you) is going to stay in your rented home. Whoever is going to stay on will need to be able to afford the rent (perhaps with the assistance of housing benefit or universal credit). Then approach your landlord to see if they will agree to transfer the tenancy into one name.

Housing law is extremely complicated. You must get advice about your rights to transfer a tenancy, the implications of doing so and how to do it – a good place to start is see the contact information for [Shelter](#) (England) or [Shelter Cymru](#), if you live in Wales.

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position

## Owner occupied home

An 'owner occupied home' is where one or more of the people living in the home are the legal owners of the home.

There are two ways you can own a home (or other property). We explain these next.

- 1 There is someone lawyers call the 'legal' owner. This tells you who the 'official' owner of the home is. This person's name is registered as the legal owner on the Title Register at the Land Registry. Having the legal interest gives you the right to control the property, for example, sell it.
- 2 There is also someone call the 'beneficial' owner. This person owns the benefit, value or what lawyers call the 'equity' in the property. Lawyers also talk about this type of owner as having a 'beneficial interest' in the home. Having the beneficial interest in the property means you are entitled to some amount of the value when it is sold.

Often if you own your home you will be both the legal and beneficial owner. But sometimes you may be just one or the other.



## Finding out how your home is owned

You may have a clear understanding of who owns your home and how. Or, you might not actually be sure at all. [A survival guide to home ownership and living together](#) explains what you need to do to find out.

If you live with your ex (or soon to be ex) in a home that one, or both, of you own we have another useful guide that explains more about the law on this, called [A survival guide to home ownership and living together](#).

When you own your home with someone else, such as your ex, both your names will be on the Title Register at the Land Registry. This means that you jointly own the legal title. The next thing to do is understand what beneficial interest you have in the home.

The law allows you to own the beneficial interest in a home with another person in two different ways:

- As joint tenants, or,
- As tenants in common.

The jargon is a bit confusing, but don't be put off by it.

Owning your home as beneficial joint tenants means:

You own it jointly and you each own all of it. If you split up and formally "sever the joint tenancy" by serving a notice on your ex, you are entitled to half of the value. If one of you dies, the other person automatically owns the whole property. Lawyers call this the 'Right of Survivorship'.

Owning a home as beneficial tenants in common means:

You each own a defined share of the value. You agree the shares, or sometimes the court orders what share you each get. You can own it in any shares that you agree on (70/30, 60/40, 50/50 etc.) If one of you dies, your share goes to whoever is named in your Will. If there is no Will, it will go to your closest relative in line with the intestacy rules.

To work out whether you own the property as beneficial joint tenants or tenants in common you need to look at the TR1 form. On this form it will say, in section 10, whether you own the beneficial interest as beneficial joint tenants or beneficial tenants in common. If you own it as tenants in common it will state what shares you each have. [A survival guide to home ownership and living together](#) explains how to get a copy of the TR1 form, if you don't have one already.

Generally speaking, the TR1 form will be legally binding on both you and your ex and will determine the shares you each get of the property, regardless of what you may have spent on it when you were together.

If you've been living in a home your ex owns in just their name and there's no other agreement or understanding in place, you will have no automatic right to stay if your ex asks you to leave. However, he or she should give you reasonable notice.

If you've been living in a home your ex owns, you don't have an automatic right to a share in the value of it, known as the 'equity'. Nor can you ask for a share to be transferred as you would do if you were married or in a civil partnership.



Your basic legal position

You're not entitled to any equity from the property – unless you can show that:

- you both intended for you to own a share and,
- because of that agreement you did something to your own detriment (such as gave up work or a job opportunity or a council tenancy) **or**,
- you contributed to the purchase price, the mortgage payments, or major building work to the property.

Non-financial contributions, such as doing building work yourself to improve the property, can also count in some circumstances. (If you have children together then you may be able to apply for a settlement of property order for the benefit of the children – see [Children](#) above.)

How the law treats any money you contributed to the home you lived in but don't own depends on:

- what you and your ex agreed or understood about your contribution, or,
- how the court looks at what you said, or did, to work out how you both understood the situation.

For example was it a loan – to be repaid at an agreed date with or without interest as agreed? Was it a gift? Or was it a contribution which gives you a legal right called a beneficial interest? Again, if you made a living together agreement, now's the time to find it and remind yourselves what you agreed to – hopefully you will have covered this issue.

The easiest way to prove you have a beneficial interest is if you have something in writing or a formal trust deed with your partner setting out who should get what when the home is sold. Without this kind of evidence proving what your intentions were, the law looks for other evidence about what understanding (if any) existed between the two of you. This involves considering questions such as:

- What did you agree about the beneficial ownership of the property?
- Were you promised a share of the property?
- Did that promise or understanding mean that you acted to your detriment in some way, for instance gave up your job or left your own home in order to live with your ex?
- Who contributed to the purchase of the property?
- Who paid the mortgage?
- Who carried out improvements to the property?

If you can prove that you have a beneficial interest (and this is often very difficult to do), this **may** allow you to:

- to get the right to live in the home,
- prevent the sale of the home for a limited period of time,
- pay the mortgage to stop the home from being repossessed or,
- get a share from the proceeds of sale if the home is sold.



If you are not married or in a civil partnership and don't own the home you shared with your ex either jointly or in just your name, this is the only way to establish long-term rights to the home and a share of the proceeds of sale. The law about this is complex and you will need legal advice about whether and how to take action.

This type of case isn't treated as a family case – it is dealt with by the normal civil court. The court will order you to pay your ex's legal costs if you lose. You may hear lawyers call these cases 'TOLATA cases' after the law that governs them – the Trusts of Land and Appointment of Trustees Act 1996.

Legal aid may be available for this type of case if you have experienced or are at risk of experiencing domestic abuse or violence. You can find more information at [How to get legal aid for a family law problem](#).

## Stuff and savings

If you owned something before you got together, it belongs to you.

If you bought something with your own money it belongs to you.

If you inherited something or someone else gave something to you, it belongs to you.

If you bought something and gave it to your ex, it belongs to them.

If you bought something out of a joint bank account it may belong to you solely or it could belong to you jointly. This area of law can get very complicated. The best thing to do if you are not sure is to ask for the document you both signed when you opened the joint account. This is called the 'bank mandate'. It sets out how the money in the account is owned. Often it states that you both own the money jointly. But this also means you both have the right to take money out and spend it. It is for this reason that banks often freeze joint accounts when you tell them you have separated so that neither of you can empty the account before you work out how to divide up the money.

If you bought something together but each contributed different amounts to the price, you own it in the shares in which you contributed, unless you have agreed differently.

## Pensions

You won't be able to make any claim against your ex's pension.

## Debts

If the debt is in your name, you alone are responsible to the lender for paying it off. It doesn't matter who spent the money. If the debt is in both names, you are both equally responsible for paying it off but the lender can usually chase either of you for all of the debt that still needs to be paid back.

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position



# What do you need to decide?

Here we look at the things you need to decide and in the next section we look at ways of deciding them – on your own or with the help of a family mediator or a family law solicitor.

This to-do list may well feel rather daunting. Some days you may feel able to tackle it and other days it may all feel too much. Try not to worry. Everyone feels like this sometimes, even without a break-up to cope with. Remember that your ex is likely to feel like this too but not necessarily at the same time as you. This means that things will take a bit of time to get sorted out.

What do you need to decide?

## Money and property

### 1. Where you will each live

Some of the things you will need to think about are:

- Will one of you stay in your home or will you both need to move out?
- If you rent, can you end your tenancy now or are you locked into it for a few more months?
- What will happen to your tenancy if only one of you stays?
- Do you have a right to stay in the property if it's only you living there? Can either of you stay?



### Protecting your right to stay in the home

If the home you live in is rented or owned in just your ex's name, you may be able to protect your right to stay there, at least for a while, if you take particular action. What you need to do depends on your situation. If you are in this position, get some legal advice if you possibly can – see [More help and advice](#).

- If you are going to sell your home, how will you divide the proceeds of sale? What will you each do to help sell it quickly?
- If you can't afford for either of you to move out, think about how you can manage to both continue to live in the property. What can you each do to make it easier for the other? (If you get benefits or tax credits, see [What you need to do and who you need to tell](#) for the rules about claiming as a single person if you are still sharing a home with your ex).
- Will you do it all at once or in stages? Some couples make a short-term and a long-term agreement to fit in with their needs. For example, some couples agree that one partner will stay in the home until it is sold. Or couples with children sometimes agree that one partner will stay in the home with the children until they have left school, and then sell the home and divide the proceeds.

Remember, even if you move out, if your name is still on the tenancy or the mortgage you are still legally responsible for paying the rent/mortgage.

If you own the property solely or jointly and have moved out, you may be entitled to a payment from the person who stays living there. But often people agree that the person remaining in the property pays all the mortgage payments instead. Who pays the mortgage after separation may make a difference as to what share of the property you each own. This is a complicated area and you should get legal advice about it if you possibly can.

Housing law is extremely complicated – you must get advice about your rights to stay and/or the implications of leaving. Shelter is a good place to start. They can offer you free housing law advice. Go to [Shelter \(England\)](#) or [Shelter Cymru](#) for more help. They ask that you look at their online help first before calling the helpline as this is for emergency situations – when people are about to be made or have just been made homeless.

I was very against the idea of moving. I didn't see why I should lose my home; it wasn't me that wanted to end it. I had put a lot of work into the flat in the 12 years we were together. But looking back on it, I think it helped create the fresh start that I needed. **Lelia**



What do you need to decide?

## 2. How you will share out the things you own

If you've been together for a very long time or have always shared your money this may not feel fair or even possible to share things out on the basis of who contributed what. Instead it may feel fairer to each leave with about half. Some people take it in turns to pick the items that are most important to them. Others try and work out a value for things and ensure that the value of what you each take is roughly equal.

## 3. How you will divide up any savings, investments or shares you own jointly

Will you divide them in the proportions in which you contributed or 50:50? What did you agree about this at the outset when you started saving money or made the investment or bought the shares? If you changed your mind later, did you both agree the change? You may not have agreed anything or may not remember what you agreed. If you are in this situation, be sure to read the section called [What you can do about the things you can't agree on](#).

## 4. How you will deal with any debts

If the debt is in your name, you alone are responsible to the lender for paying it off – it doesn't matter who spent the money. If the debt is in both names, you are both equally responsible for paying it off but the lender can usually chase either of you for all of it.

Whatever your situation, if you have debts to deal with, get some free debt advice to find out what help is available for you. See [More help and advice](#).

If you are leaving your ex with debts you helped to build up, it is only fair that you agree to make a voluntary contribution towards them.

## 5. How you will sort out the arrangements for your children

If you have children together you will need to sort out:

- Who they are going to live with and where they are going to live.
- When and where they will spend time with each parent.
- How you will pay for all the things they need.

We've produced a separate guide for parents to help you to agree arrangements that work well for everybody, and to find a solution if that is not possible. Please see [A survival guide to sorting out child arrangements](#). We've also written a guide for parents who have to ask the court for a child arrangements order. If you find yourself in this situation please see [How to apply for a child arrangements order without a lawyer](#).



What do you need to decide?

# Ways of reaching an agreement

Going to court can often cause relationships to be permanently damaged, and leaves the adults involved hurt, stressed, and poorer. You could spend the money you would spend on going to court making your children's lives and your own more comfortable.

Children can often be upset too, even if you are careful not to involve them directly. So, it is usually best to come to an agreement between yourselves, or using a family mediation service, or a solicitor to negotiate on your behalf. However you do it, you will both need to compromise.

The difficulty is that each of you may have a different idea about what is fair. You may think you should get back the proportion that you contributed, or that things should be divided equally, or divided according to what you need to start again. There's one thing for sure, you can only divide what you have, so most people will need to get used to having less money for a while.

## Option 1 – agreeing it yourselves

Agreeing things without help is not easy. You will need to find ways to discuss the issues without your emotions getting in the way and accept you probably won't get everything you want. To start with, one or both of you may be too upset and angry to discuss it. It may not be possible to agree a fair outcome by yourselves for example if you feel bullied or controlled by your ex.

### If there is domestic abuse in your relationship

If one of you has a tendency to dominate or bully the other, or there have been other forms of domestic abuse between you or involving your children, it's probably not a good idea for you to try and sort things out between yourselves. It could put you in danger or lead you to agree to things that you might regret later.

It's better to start by getting some advice from a family mediator or family law solicitor. For more information on doing this see [More help and advice](#). You might be able to get legal aid to pay for a mediator or a solicitor, depending on your situation. For more on this go to [How to get legal aid for a family law problem](#).

Ways of reaching an agreement

Next, we list some ideas for reaching an agreement with your ex.

- Agree in advance with your ex how and when you will try to come to an agreement. For example, will you find a date to meet on neutral territory, do it over email, or will you use a family mediation service? Nobody likes to feel ambushed and you have a much better chance of agreeing something if you start your discussions feeling that you have chosen the approach and you want it to succeed. Arranging a time to talk in advance also gives you time to better plan what you want to say.

## Ways of reaching an agreement

- If you have a lot to discuss, try and agree what is urgent and deal with that first. You may have different priorities but dealing first with what is most worrying for each of you can make the other things go much more smoothly.
- If you have to discuss arrangements both for your children and finances, consider dealing with them separately – maybe at separate meetings.
- Many people just want to sort everything out immediately so at least they don't have to deal with the uncertainty. But things often go more smoothly if you force yourself to take a little bit of time. For example, it can take time to get all the information you need, to be able to agree what to do about the house or other money. The best outcome will take some time to sort out.
- Before you talk, think about the outcome you would like and where you can be flexible. If you know what your ex might feel about your suggestion, think if there's anything you can do to make it more appealing for them.
- Listen to any suggestions your ex makes. Even if you can immediately think of 10 reasons why it's a bad idea, resist the impulse to say so. Instead let them see you are giving it some serious thought.
- Try to stick to the point as much as you can. If you are meeting in person, having the main points written down on a piece of paper can be helpful and can give you something to focus on if you feel yourself starting to get upset or angry, or if your ex strays from the point.
- If you try to negotiate via email, bear in mind that it is even easier to take offence when you can't see expressions or hear tone of voice, so keeping yourself calm and sticking to the point is even more important.
- Remember that email is a permanent record of what you say and can be printed off and shown to others, such as a judge. So don't send anything you would be embarrassed by later.

My ex and I sorted out quite a lot of stuff over email. The best piece of advice I was given was to take two days before replying to any email. That gave me time to get really angry and calm down again before I said anything. **Colvin**



## Option 2 – using family mediation

This is where you meet together with your ex and a mediator, who has been properly trained to help you put your feelings aside and focus on the issues that need to be sorted out. The mediator won't take sides or decide what is fair for you – they are simply there to help your discussions.

### Why you might want to use family mediation

Many separating couples want to reach agreement but find direct communication with each other very difficult. Family mediation can:

- offer a safe, neutral environment in which to talk about what you may be able to agree,
- be less stressful for you and any children,
- be cheaper than sorting things out using solicitors or the court system,
- help you reach an agreement that you are both able to accept and which you might not manage to reach on your own.

Many people say that a positive side effect of mediation is that it helps them to communicate again, which can only be a good thing especially if you are going to remain part of each other's lives because you have children together.

For more detailed information about how family mediation works see [A survival guide to family mediation](#).

When you are looking for a mediator, don't be afraid to phone around and compare prices. (While the fees are usually charged per person, it is open to you and your ex to decide who will actually pay or how to share the cost.)

If you are eligible for legal aid (help from the government to pay for legal advice and mediation), the introductory meeting and the mediation is free. If only one of you is eligible, legal aid will still cover the introductory meeting and the cost of the first full mediation session for both of you. The mediator will work out if you are entitled to legal aid at the first meeting, or you can check by using the [legal aid calculator](#) on GOV.UK.

You may also be able to get a small amount of free legal advice from a solicitor alongside the mediation process and get the agreement you make about your finances turned into a separation agreement for free too. However, in practice it's possible you may have difficulty finding a solicitor willing to take on this particular kind of legal aid case – but don't let that stop you asking.

I was dead against family mediation. I didn't want to pay money to discuss things in front of someone else when we could just do it ourselves. But I agreed to go to the meeting for the kids. By the end of the first session it felt like the right thing for us. It was still hard but not half as hard as discussing things on our own. I think also, because we were paying for it, it stopped us from going round and round in circles endlessly. **Sam**

Ways of reaching an agreement

### Option 3 – using solicitors to negotiate for you

Another option is to use a solicitor to negotiate on your behalf. This is likely to be quite a bit more expensive than mediation.

Many solicitors offer a fixed fee (or even a free) first appointment. You can use this to get some initial advice and meet the solicitor to see if you feel you will get on with them. They should explain what your options are (including mediation) as well as what and how they charge for their services. You could ask them to limit their charges to a particular sum to start off with, so that when their charges reach that amount you can review your situation and decide whether or not to carry on using their services.

Legal aid may be available to pay for a solicitor to negotiate on your behalf if you have experienced or are at risk of experiencing domestic abuse. You can find more information about legal aid for family problems by looking at [How to get legal aid for a family law problem](#).

You can check if you are eligible for legal aid by using the [legal aid calculator](#) on GOV.UK. For information about how to find a good family law solicitor see [More help and advice](#).



Ways of reaching an agreement

# What to do when you have come to an agreement

When you come to any sort of agreement between yourselves, it is essential to write it down. This should include specifics, like who is to have what and the amount and dates of any agreed payments, in case there is any dispute later on. It is best to have one document that you both sign and have copies of – but better to have your own record than none at all.

If you want something more formal, a family law solicitor can draft a separation agreement for you. The more complex your situation, the longer it may take to negotiate (particularly if your ex is unrepresented) and the greater the cost. At the lower end of the scale you may be looking at costs in the region of £700-£1000. At the higher end, costs could be nearer £3,000. You may want to agree a fixed fee with a solicitor rather than an hourly rate. A separation agreement confirms the agreement you have made and may help you avoid court proceedings in the future. If you have agreed to transfer property from one person to another you should also consult a solicitor.



For information about how to find a good family law solicitor see [More help and advice](#).

It's ok to phone around and compare prices. In some circumstances you may be entitled to legal aid. For information about getting legal aid about a family problem, see [How to get legal aid for a family law problem](#).

**What to do when you have come to an agreement**

# What you can do about the things you can't agree on



## Children

If you are struggling to agree arrangements for your children take a look at [A survival guide to sorting out child arrangements](#).

If you still can't reach agreement, you may have to ask the court to decide.

There are good reasons to think very carefully before you apply to court. Solicitors' fees can mount up quickly. There are court fees to pay unless you can [get help with fees](#). It can be very stressful for you and have a detrimental impact on your children. Added to all this, it is not a quick process, and at the end, if the judge makes a decision, you will have to accept it even if it isn't what you want.

You may well be worried about the costs of having a solicitor to represent you. But, it can be invaluable at important times like this, to get a bit of legal advice. To help, we have a panel of solicitors who are all members of Resolution who can offer expert legal advice for a reduced fixed fee. You can read more about this service at [Getting affordable advice from a family solicitor via Advicenow](#).

Alternatively, for information about how to find a good family solicitor see [More help and advice](#). It's ok to phone around and compare prices. Some will offer one-off help for a fixed price, others may offer a first meeting for free.

Legal aid may be available for this type of case if you have experienced or are at risk of experiencing domestic abuse. You can find more information about getting legal aid for a family problem at [How to get legal aid for a family law problem](#).

The court will want evidence that you have met with a mediator first and considered mediation before it will consider making a decision about your children for you. See [How to apply for a child arrangements order without a lawyer](#) for more details about these rules.

What you can do about the things you can't agree on

## Property and money

If you find it impossible to agree what share (if any) you should each have in the family home you lived in together, depending on the circumstances of your particular situation, you may be able to go to court about this. But, even if this option is available to you, this is stressful, expensive, and slow and the outcome may be very uncertain so you should only consider doing this as a last resort. The law on disputes about home ownership for unmarried couples is complex and you will need to get some legal advice about whether and how to take action. If you lose your case you might have to pay some or all of your ex's legal costs, as well as your own.

Legal aid may be available for this type of case if you have experienced or are at risk of experiencing domestic abuse. You can find more information about getting legal aid for a family problem at [How to get legal aid for a family law problem](#).

For information about how to find a good solicitor see [More help and advice](#). It's ok to phone around and compare prices. Some will offer one-off help for a fixed price – others may offer a first meeting for free.



What you  
can do about  
the things  
you can't  
agree on

# What you need to do and who you need to tell

## Benefits

If you are on a low income, check if you might be entitled to benefits or tax credits now you are a single person. There is a very helpful [Benefits calculator](#) on the [Turn2us](#) website.

If you are no longer a couple but still share a home, you can apply for benefits as a single person provided you are living as a single person. This means not sleeping in the same bed, not cooking or shopping for each other, washing each other's clothes, or paying for things as a couple. See [A survival guide to benefits and living together](#) for more details.

If you get means tested benefits or tax credits, make sure you inform the agency that deals with them that you are no longer living as part of a couple. This may be the Department for Work and Pensions, HM Revenue and Customs, and your local authority (for housing and council tax benefit). You will have to make a new claim in just your name. It is really important not put this off as you will build up an overpayment that you will have to pay back. If you have moved, you also need to make sure they all have your new contact details.

## Debts

If you have debts in both names and have agreed that one of you will be responsible for paying it off, inform the credit company of your agreement and give them up to date contact details for both of you. Your private agreement does not change the fact that you are both liable for the debt, but if they understand the arrangement and can contact you they should let you know if the payments are not being made.

This is important because if your ex doesn't make the payments the company may take debt recovery proceedings against both of you, or just you! They don't have to serve you with notice of the proceedings in person – they can just send a letter to your last known address. You could wake up one day to discover that a county court judgement has been made against you, without you knowing anything about it.

If your debts are a problem, get some free debt advice from [National Debtline](#) or [StepChange Debt Charity](#).

## Joint accounts

The easiest thing is probably to close all joint accounts and divide up any money in them. If you decide it would be easier for one of you to keep an account, make sure you let your bank know the situation, and change the account into one name only. If you don't, your ex could empty the account or run up a huge overdraft that you will both be legally responsible for. If you tell the bank your relationship has broken down you may find that they temporarily freeze the account, until you work out your situation. Take care to ensure that you have enough cash to tide you over if this happens.

Having said that, closing or removing a name from a joint account isn't always as easy as it should be. Some banks will only take the instruction from the 'main account holder', which is simply the person whose name was put first on the application form when the account was opened. To save any hassle, write to the bank straight away explaining what you want them to do and then both sign it. Keep a copy.

What you need to do and who you need to tell

If you have problems closing the account you can ask the bank to freeze it – stopping any payments going out. This stops the other account holder running up a debt on it but it also stops bills being paid direct from the account. So make sure you have made arrangements to pay regular direct debits and standing orders before freezing the account.

## Wills

If you have a will that leaves your ex all your worldly possessions, remember to destroy your will. Do this even if you are not yet ready to make a new one. If a

solicitor drew the will up for you, inform him or her, so that they know that the will has been revoked. Make a new will as soon as possible, otherwise anything you do own will go to other people in line with the [intestacy rules](#) which may well not be what you want to happen.

## Pension or life insurance

If you have nominated your ex to receive death benefits from your pension, or the pay out from a life insurance policy, remember to change this. Call the companies concerned and discuss the situation.

If you are staying in the home	If you have moved out of the home
<ul style="list-style-type: none"> <li>● It is important to ensure that the correct name is on things like utility bill and council tax accounts. Otherwise your ex could be pursued for payment.</li> <li>● Inform your landlord or mortgage lender that your ex has now left.</li> <li>● Inform your home insurers that your ex has left.</li> <li>● If you are now the only adult in your household be sure to tell the Council Tax Department at your local authority. If you fill in the relevant form you will be entitled to a 25% discount on your council tax. You can <a href="#">apply for a council tax discount</a> via GOV.UK.</li> </ul>	<p>Make sure that you inform relevant companies, businesses and organisations of your move. Next, we list a few important ones but there may be more!</p> <ul style="list-style-type: none"> <li>● Your bank and/or building society.</li> <li>● All the credit companies you have accounts or store cards with.</li> <li>● Anyone you have a hire purchase agreement with.</li> <li>● Your doctor, dentist, opticians, and any other health workers.</li> <li>● Water, gas, electricity, broadband and phone companies.</li> <li>● The Post Office if you need your post redirected.</li> <li>● The company you have your buildings and/or contents insurance with.</li> <li>● Any companies you have subscriptions with.</li> <li>● The landlord or mortgage company.</li> <li>● Your children’s nursery/school – if you have children.</li> <li>● The DVLA – if you have a car.</li> </ul>

**What you need to do and who you need to tell**

# More help and advice

## How to find a good family mediator

Ask friends and family for a recommendation or your solicitor if you have one. Or use the [search tool provided by the Family Mediation Council](#) to find one near you.



If you follow up on a recommendation be sure to just check the name on the Family Mediation Council website so you know that the person is registered and either working towards being an accredited mediator or is accredited. This will give you reassurance that the mediator you choose is trained and experienced.

Anyone can call themselves a family mediator, so it is important to choose someone you can be sure is well trained and experienced. You can read more about this on the [Family Mediation Council](#) website. All Family Mediation Council registered mediators must follow a code of practice to maintain good standards in their work. If you are interested, you can find the [code of practice](#) on the Family Mediation Council website.

All the mediators included on the Family Mediation Council website have been trained by providers approved by the Family Mediation Council and most are also accredited, which means that they are experienced mediators. Not all mediators do Legal Aid funded mediation, but those who do must be accredited – you can search for them by ticking the middle box on the search tool.

Mediators are trained to give legal information but not legal advice. Some people feel safer with a mediator who is also a qualified solicitor as they have experience of the family court system. If you want a mediator who is also a solicitor, use the search on the family mediation council's website and check what it says on the mediator's website about their background. Or the [search on Resolution's](#) site, explains in the results how long the mediator has been a family law solicitor. Some mediators have backgrounds in other very useful professions that could be particularly helpful to you depending on your situation, such as financial advisers or family therapists.

Don't be afraid to phone around and compare prices. You need to ask:

- How experienced is the mediator? Is the mediator accredited? (If the mediator is working towards accreditation they will be less experienced but supervised and supported, and cheaper).
- How many mediations do they do each year? (Try to choose an experienced mediator who does many sessions each year).



More help and advice

- How much is the Information and Assessment meeting?
- How much will each mediation session cost each of you?
- If there are any other additional fees (for example, is there a separate cost for writing up the agreement at the end)?
- How busy they are – are they likely to be able to see you at a time that both you and your ex can do?

## How to find a good family law solicitor

For help finding a family lawyer a good place to start is [Resolution](#) where you can find lawyers by searching using your postcode. Resolution members must commit to helping you work out your legal problem in a non-confrontational way. A green tick next to the lawyer's name tells you that they offer legal aid.

You can also search for a specialist lawyer near you who has been accredited by the Law Society. This means they have a significant amount of experience and expertise and have passed a Law Society assessment. On the [Law Society Find a solicitor page](#) you can click on 'More search options' on the right at the bottom of the box. This gives more options to choose from. Here you can tick the accreditation box for 'Family' or 'Family – advanced', or both.

You can also find a family lawyer via the [gov.uk website](#) by searching online for 'find a legal aid adviser or family mediator'.

Some family law specialists do extra training in an approach to solving legal problems called collaborative law. If you use this approach, each of you must agree to use a collaboratively trained lawyer and have meetings together to try and solve the issues without going to court. You can search for a collaboratively trained lawyer on the [Resolution website](#) by choosing 'Collaborative practitioner' in the Service offering box.

Don't be afraid to call around various firms to get information on their costs and a feel for the firm's approach.

## Relationship help and support

Search online for [Relate](#). They have lots of information on their website on a range of problems that can arise in relationships and families.

## Parenting help and information

[Cafcass](#) work with children and their families, and then advise the court on what they consider to be in the best interests of individual children. You can find lots of information and support on their website on how to parent your children well with your ex, during and long after your separation.

[Gingerbread](#) provides expert advice, practical support and other help for single parents.

Single Parent Helpline: 0808 802 0925

Monday – 10am-6pm, Tuesday – 10am-4pm, Wednesday – 10am-1pm and 5pm-7pm, Thursday and Friday – 10am-4pm.

More help and advice

[Family Lives](#) is a national charity providing help and support in all aspects of family life. Their helpline can give information, advice, guidance and support on any aspect of parenting and family life.

Family Helpline: 0808 800 2222

Monday to Friday 9am-9pm  
Saturday and Sunday 10am-3pm

[OnlyMums](#) offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

[OnlyDads](#) offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

## Domestic violence and abuse

If your ex has been or is being abusive to you there are lots of places you can find out more information and get support. Always dial 999 in an emergency.

For support or to discuss your options you can call the 24 hour [National Domestic Violence Helpline](#) on 0808 2000 247 or in Wales, [Live Fear Free](#) on 0808 80 10 800 (24 hours).



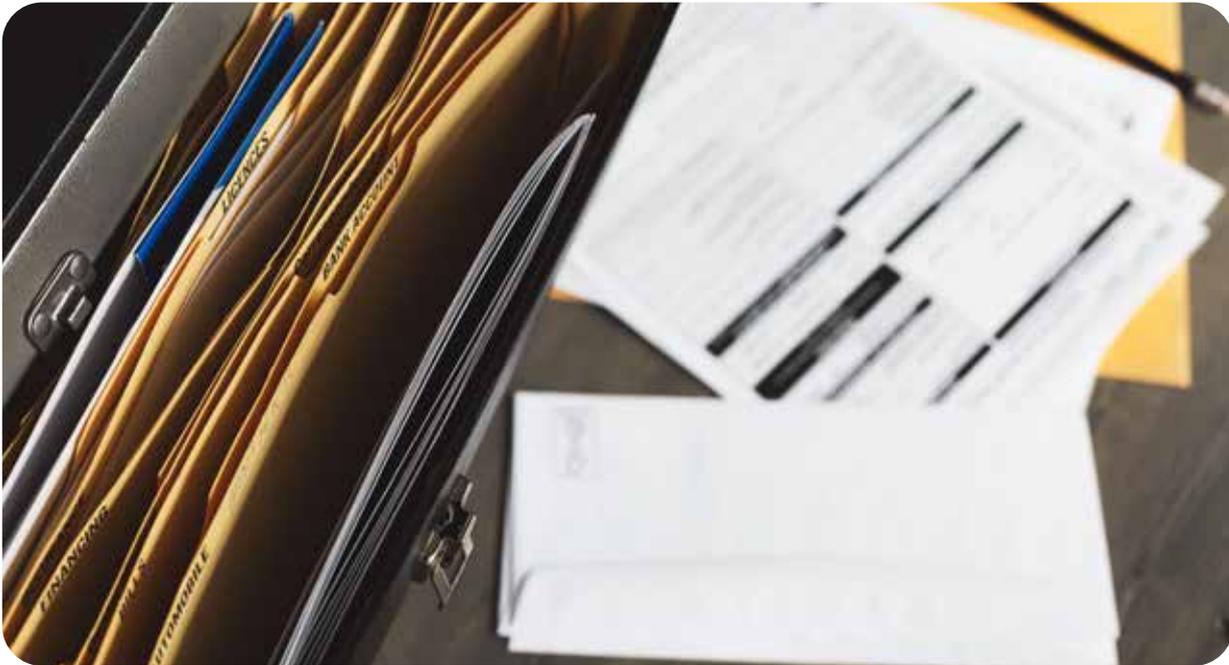
Both help lines are for anyone who is experiencing, or has experienced domestic abuse, or for anyone who is worried about domestic abuse happening to a friend, family member or colleague. It is free, confidential and the number will not show up on a BT telephone bill.

If you are a man and you or your children are affected by domestic violence or abuse you can contact the [Men's Advice Line](#) on 0808 801 0327.

[Galop](#) runs a national helpline for lesbian, gay, bisexual and trans people experiencing domestic abuse. You can contact them on 0800 999 5428.

You can find more information and support from:

- [Refuge](#)
- [Women's Aid](#)
- [Welsh Women's Aid](#)
- [Surviving Economic Abuse](#)



## Debt advice

[National Debtline](#) has lots of useful information on their website. They offer an email service and webchat. If you prefer to speak over the phone they also offer you free advice via their helpline: 0808 808 4000 open Monday to Friday 9am-8pm and Saturday 9.30am-1pm

[StepChange Debt Charity](#) also has lots of useful information on their website and can offer you free advice over the phone. Helpline: 0800 138 1111 open Monday to Friday 8am-8pm and Saturday 8am-4pm. They ask that you fill in their budget template that you can find on their website before you call.

## Housing law advice

Shelter (England) gives advice about rented housing and helps people struggling with bad housing or homelessness through advice, support, and legal services. Visit [Shelter England](#) for information and advice online and to access Shelter's emergency helpline. If you live in Wales, go to [Shelter Cymru](#).

More help  
and advice

The information in this guide applies to England and Wales and is for general purposes only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in the guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

# advicenow.org.uk

Making sense of the law and your rights

If you would like this guide in another format please email [guides@lawforlife.org.uk](mailto:guides@lawforlife.org.uk)

We would like to thank all those who provided feedback on this guide, in particular Rhys Taylor of 36 Group Chambers.

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Law for Life – March 2022.



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