



A survival guide to

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# Living together and breaking up

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**advice**now

Making sense of the law and your rights



## Introduction

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 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.

It 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. You can find this at [www.advicenow.org.uk/guides/survival-guide-sorting-out-your-finances-when-you-get-divorced](http://www.advicenow.org.uk/guides/survival-guide-sorting-out-your-finances-when-you-get-divorced)

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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 fairly or easily. So, it's useful to recognise how you are feeling and how it may affect your ability to come to a fair agreement.

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 out things 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 a fair arrangement so that you don't feel angry or resentful 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
- 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. 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 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 fair way of dividing your money, debts and property between you.

## 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 at [www.advicenow.org.uk/guides/sorting-out-arrangements-your-children](http://www.advicenow.org.uk/guides/sorting-out-arrangements-your-children). We've also written a guide for parents who have to ask the court for a child arrangements order at [www.advicenow.org.uk/guides/apply-court-order-about-arrangements-your-children-without-help-lawyer](http://www.advicenow.org.uk/guides/apply-court-order-about-arrangements-your-children-without-help-lawyer)
- If you have children together, whoever the children spend less time living with and being cared for by will have to pay child maintenance. How much child maintenance they will pay doesn't depend on the income of the parent receiving the maintenance for the children.

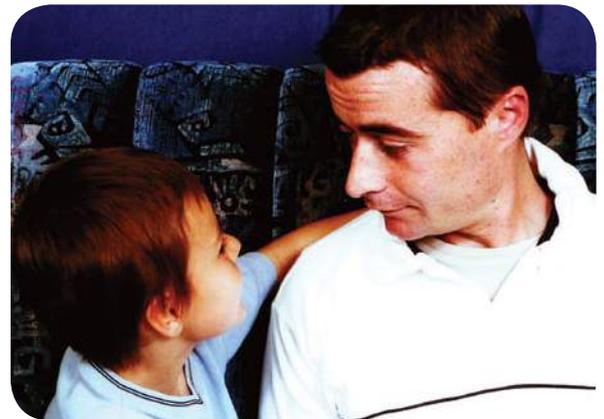


Your basic legal position

- 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 on page 23**.
- Child maintenance is money paid by one parent to the other to meet the income needs of their children. It's 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. Try and agree how much the parent doing most 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 at [www.gov.uk/calculate-your-child-maintenance](http://www.gov.uk/calculate-your-child-maintenance)
- If you can't agree the amount, either of you can apply to the Child Maintenance Service (CMS) but only after you've first talked to Child Maintenance Options [www.cmoptions.org](http://www.cmoptions.org). You can contact Child Maintenance Options by calling **0800 988 0988** or using their online Live Chat service.

- If they are not your children (for example, if they are your ex's from a previous relationship) you are not financially responsible for them unless you have adopted them. This doesn't mean you can't ask for contact with them and if necessary apply for a child arrangements order.
- You may be able to make a claim for a lump sum for the benefit of any children you have together and/or the transfer of a property into your name for the benefit of the children. But this won't give you any share in the property – so you don't get to keep it but you do have somewhere to live while you care for the children as they grow up.
  - 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 about getting help to pay for legal advice about a family problem at [www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem) including a link to the types of evidence that the Legal Aid Agency will accept as proof that you (or a previous partner of the abuser) have experienced domestic violence or abuse.
  - If you aren't eligible for legal aid and you don't have enough savings or income to pay for legal advice yourself then you may want to think about the possibility of applying for a Legal Services Order or a litigation loan. A Legal Services Order is an order that your ex pays your legal costs up to and including the cost of the final hearing. Legal costs are what you spend on a lawyer. The court will only make this kind of order if the person who asks for the order can show that they have no other way of paying for their legal costs, for example, by getting a loan.

The court will not make an order if it means that the person due to pay will end up not being able to pay their own legal fees or if it would cause them undue hardship. Litigation loans are provided by commercial companies in cases where the chances of success are good in return for a share of the proceeds of the claim. You can find more information about litigation loans at <http://associationoflitigationfunders.com>



- If you're an unmarried dad, and your child's birth was registered on or after 1 December 2003, and you were named on the birth certificate as their dad, you automatically have parental responsibility. If you aren't named on the birth certificate then you don't have parental responsibility. We have a separate guide 'How to apply for Parental Responsibility without the help of a lawyer' for parents or step-parents who want to know more about parental responsibility – what it is and how you get it. It explains how to make a parental responsibility agreement and how to apply for a parental responsibility order. You can find it at [www.advicenow.org.uk/guides/how-apply-parental-responsibility-without-help-lawyer](http://www.advicenow.org.uk/guides/how-apply-parental-responsibility-without-help-lawyer)



Your basic  
legal  
position

## 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.

## 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 and you may be deemed to have made yourself 'intentionally homeless' which means 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. Telephone: **0808 800 4444**. Open Monday to Friday 8am–8pm, Saturday/Sunday 8am–5pm, 365 days a year. Calls are free from UK landlines. Shelter (England) also has advice centres where you can get personal, face to face advice. For details call Shelter on **0808 880 4444** or see [https://england.shelter.org.uk/get\\_help](https://england.shelter.org.uk/get_help)

Shelter Cymru can advise on housing problems if you live in Wales. Telephone: **0345 075 5005** or see <https://sheltercymru.org.uk/get-advice>. It also runs advice surgeries across Wales. To find out when there is an adviser in your area, see: <http://sheltercymru.org.uk/get-advice/advice-near-you>

- 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 agree the best way of transferring the tenancy. 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 – see the contact information for Shelter (England) and Shelter Cymru on **page 7**.

### Owner occupied home

- If you've been living in a home you jointly own you will probably own it in equal shares unless you agreed something different with your ex when you bought the property together.
- If you've been living in a home your ex owns 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 as you would do if you were married or in a civil partnership. You're not entitled to any money from the property – unless you can show that 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 transfer of property order for the benefit of the children – see **page 6**.)
- 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 between you. 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:

- Who contributed to the purchase of the property?
- Who paid the mortgage?
- Who carried out improvements to the property?
- Were you promised a share of the property?
- Did that promise or understanding mean that you gave up your job or left your own home in order to live with your ex?

- If you can prove that you have a beneficial interest (and this is often very difficult to do), this may allow you to get the right to live in the home, to prevent the sale of the home for a limited period of time, to pay the mortgage so as to prevent the home 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.



Your basic legal position

- 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 about getting help to pay for legal advice about a family problem at [www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem) including a link to the types of evidence that the Legal Aid Agency will accept to prove that either you (or a previous partner of the abuser) have experienced domestic violence or abuse. If you aren't eligible for legal aid and you don't have enough savings or income to pay for legal advice yourself then you may want to ask a solicitor about whether they provide 'no win, no fee' legal services in this type of case or think about the possibility of applying for a litigation loan. Litigation loans are provided by commercial companies in cases where the chances of success are good in return for a share of the proceeds of the claim. You can find more information about litigation loans at <http://associationoflitigationfunders.com>

## 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 belongs to you equally, unless you have agreed to own the account in different shares. If you have, you own the object in those shares.
- 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 it.

# 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 solicitor.

## 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?
- 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 on page 23**).
- 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 on page 21** 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.

What do you need to decide?



Housing law is extremely complicated; you must get advice about your rights to stay and/or the implications of leaving. Shelter (England) gives advice about rented housing. Telephone: **0808 800 4444**. Open Monday to Friday 8am–8pm, Saturday/Sunday 8am–5pm, 365 days a year. Calls are free from UK landlines. Shelter (England) also has advice centres where you can get personal, face to face advice. For details call Shelter on **0808 880 4444** or see [https://england.shelter.org.uk/get\\_help](https://england.shelter.org.uk/get_help). Shelter Cymru can advise on housing problems if you live in Wales. Telephone: **0345 075 5005** or see <https://sheltercymru.org.uk/get-advice>. It also runs advice surgeries across Wales. To find out when there is an adviser in your area, see: <http://sheltercymru.org.uk/get-advice/advice-near-you>.



## 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, it 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?

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?

## 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** on **page 23**.

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 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 at [www.advicenow.org.uk/guides/sorting-out-arrangements-your-children](http://www.advicenow.org.uk/guides/sorting-out-arrangements-your-children). We've also written a guide for parents who have to ask the court for a child arrangements order

at [www.advicenow.org.uk/guides/apply-court-order-about-arrangements-your-children-without-help-lawyer](http://www.advicenow.org.uk/guides/apply-court-order-about-arrangements-your-children-without-help-lawyer)



What do you need to decide?

# Ways of reaching an agreement

Going to court can often cause relationships to be permanently damaged, and leave 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.

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's better to start by getting some help from a family mediator or solicitor.



For information about finding a family solicitor or mediator see **More help and advice** on **page 23**. For information about getting help to pay for legal advice about a family problem, see [www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem)

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.
- 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 need 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.
- 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-partner 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**



Ways of reaching an agreement

## Option 2

### Using Family Mediation

This is where you meet together with your ex-partner 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.

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 information about how family mediation works see our separate guide **A survival guide to using Family Mediation after a break up** at [www.advicenow.org.uk/guides/survival-guide-using-family-mediation-after-break](http://www.advicenow.org.uk/guides/survival-guide-using-family-mediation-after-break)

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 (see <https://www.gov.uk/check-legal-aid>).

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**

### 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;
- help you reach an agreement that you are both able to accept and which you might not manage to reach on your own.

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 or violence. You can find more information about getting help to pay for legal advice about a family problem at [www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem) including a link to the types of evidence that the Legal Aid Agency will accept to prove that either you (or a previous partner of the abuser) has experienced domestic violence or abuse to support your application.

You can check if you are eligible for legal aid by using the legal aid calculator on GOV.UK (see [www.gov.uk/check-legal-aid](http://www.gov.uk/check-legal-aid))

For information about how to find a good family solicitor see: **More help and advice** on **page 23**.

## Collaborative law

This is an approach to sorting out your finances that involves each of you having your own lawyer and all meeting in the same room to discuss things openly and to work things out together instead of negotiating over the phone or by letter.



It doesn't work for everyone, as both you and your ex need to be committed to acting reasonably. However, in some cases it can help couples reach an agreement that both are happy with.

If the discussions break down and one of you ends up going to court, then the collaborative process is over and both your lawyers have to stop acting for you. If you want more legal advice or help, you have to get a different lawyer.

You can search for a collaborative lawyer at [www.resolution.org.uk/find\\_a\\_collaborative\\_lawyer](http://www.resolution.org.uk/find_a_collaborative_lawyer)

## Family arbitration

Family arbitration is an alternative to court proceedings. It involves both of you agreeing to the appointment of an independent arbitrator (often a barrister or maybe a retired judge). You will need to disclose all the same information that you would in court proceedings. The advantages are that the same arbitrator will deal with your case from beginning to end, and you will have a lot more control over setting the timetable for reaching a conclusion and how, when and where any hearings happen.

The arbitrator may try to help you reach agreement first. But if that can't be done, the arbitrator (like a judge) has the power to decide what should happen.

You can search for a family arbitrator at [www.resolution.org.uk/find\\_an\\_arbitrator](http://www.resolution.org.uk/find_an_arbitrator) or at <http://ifla.org.uk>

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 useful 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 a bit more formal, a family 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 £600–£900. 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.

If you have qualified for legal aid for mediation this will extend to paying for a solicitor to advise you throughout the mediation process and to drafting the agreement for you.



For information about how to find a good family solicitor see: **More help and advice** on **page 23**.

It's ok to phone around and compare prices. In some circumstances you may be entitled to legal aid. For information about getting help to pay for legal advice about a family problem, see **[www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-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 there are issues around arrangements for the children that you really can't agree on, you may have to ask the court to decide. Sometimes starting the court process helps to get your ex talking and focussed on the need to agree things. But before doing this, see a good family solicitor. They will be able to advise you on your chances of success and help you work out if it's worth it. If you decide to proceed, you can then decide whether to get a solicitor to help you make your case or if you need to try and do it yourself.

For information about how to find a good family solicitor see: **More help and advice** on **page 23**.

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 or violence. You can find more information about getting help to pay for legal advice about a family problem at [www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem) including a link to the types of evidence that the Legal Aid Agency will accept to prove that either you (or a previous partner of the abuser) has experienced domestic violence or abuse.

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 court order about the arrangements for your children without the help of a lawyer** at [www.advicenow.org.uk/guides/how-apply-court-order-about-arrangements-your-children-without-help-lawyer](http://www.advicenow.org.uk/guides/how-apply-court-order-about-arrangements-your-children-without-help-lawyer) for more details about these rules.

## Money and property

If you find it impossible to agree what share (if any) you should each have in the family home you lived in together, you could go to court about this. But 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 governing disputes about home ownership for unmarried couples is complex and you will to start by getting 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.

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

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 about getting help to pay for legal advice about a family problem at [www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem](http://www.advicenow.org.uk/know-hows/getting-help-pay-legal-advice-about-family-problem) including a link to the types of evidence that the Legal Aid Agency will accept to prove that either you (or a previous partner of the abuser) have experienced domestic violence or abuse.

For information about how to find a good solicitor see: **More help and advice** on **page 23**. 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.

If you aren't eligible for legal aid and you don't have enough savings or income to pay for legal advice yourself then you could think about the possibility of applying for a litigation loan. Litigation loans are provided by commercial companies in cases where the chances of success are good in return for a share of the proceeds of the claim. You can find more information about litigation loans at <http://associationoflitigationfunders.com>



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 Turn 2 Us website at [www.turn2us.org.uk/Get-Support](http://www.turn2us.org.uk/Get-Support)

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 our guide **Benefits and Living Together** for more details at [www.advicenow.org.uk/guides/benefits-and-living-together](http://www.advicenow.org.uk/guides/benefits-and-living-together)

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. Do not put it off as you will build up an overpayment that you will have to pay back – and you can't offset the amount you would have got if you had reclaimed against the amount you owe. 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 them 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. 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. See **More help and advice** on **page 23** for their contact details.

## 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 an overdraft that you will both be legally responsible for.

Having said that, closing or removing a name from a joint account isn't always as easy as it should be. Some banks will

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

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 or building society straight away explaining what you want them to do and then both sign it. Keep a copy.

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.

## 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

- 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.
- Inform your landlord or mortgage lender that your ex has now left.
- Inform your home insurers that your ex has left.
- 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 do this online (see [www.gov.uk/apply-for-council-tax-discount](http://www.gov.uk/apply-for-council-tax-discount)).

### If you have moved out of the home

Make sure that you inform:

- Your bank and/or building society.
- All the credit companies you have accounts or store cards with.
- Anyone you have a hire purchase agreement with.
- Your doctor, dentist, and any other health workers.
- If you have children, the child's school or nursery.
- Water, gas, electricity and telephone companies.
- The council tax department at your local authority.
- The Post Office if you need your post redirected.
- The company you have your buildings and/or contents insurance with.

What you need to do and who you need to tell

# More help and advice

## How to find a family mediator

Ask friends and family for a recommendation or your solicitor if you have one. Or use the family mediator finder service provided at [www.familymediationcouncil.org.uk/find-local-mediator](http://www.familymediationcouncil.org.uk/find-local-mediator). 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. Mediators who do Legal Aid funded mediation are all 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. They can't give you legal advice but they are obliged to tell you if you are about to make an agreement that is very different to what a court would order. (If you want to do it anyway, you can.) 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 own website about their background. Or the search on Resolution's site [www.resolution.org.uk](http://www.resolution.org.uk) explains in the results how long the mediator has been a family law solicitor. (Not all good family mediators and solicitors appear on Resolution's search, only their members).

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

- What the mediator's experience is?
- Is the mediator accredited?
- If the mediator is also a solicitor, ask how many mediations the solicitor does each year. (Choose an experienced solicitor–mediator who does many).
- How much the Information and Assessment meeting is?
- How much each mediation session will 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?



More help  
and advice

## How to find a solicitor

Ask friends and family for a recommendation. You can also search here:

- Find a legal adviser or family mediator  
**<https://find-legal-advice.justice.gov.uk>**
- Find a solicitor in England and Wales  
**<http://solicitors.lawsociety.org.uk>**
- Find a Resolution member (for family law)  
**[www.resolution.org.uk/findamember](http://www.resolution.org.uk/findamember)**

The Royal Courts of Justice Advice Bureau (see **[www.rcjadvice.org.uk](http://www.rcjadvice.org.uk)**) may be able to help you if you:

- live in England or Wales,
- have a case in the Family Court, and
- are not already represented by a solicitor or barrister.

To book an appointment, please check their website for latest appointment details.

## How to see if you can get Legal Aid

You can check if you might qualify for Legal Aid at **[www.gov.uk/check-legal-aid](http://www.gov.uk/check-legal-aid)**



## Help and support for single parents

### Gingerbread

**[www.gingerbread.org.uk](http://www.gingerbread.org.uk)**

Gingerbread's Single Parent helpline offers support and expert advice on anything from dealing with a break-up, to going back to work or sorting out maintenance, benefit or tax credit issues. Helpline: **0808 802 0925**. They also provide lots of information and support forums on their website.

### Families Need Fathers

**<https://fnf.org.uk>**

Families Need Father's helpline offers support and a listening ear to dads, mums, grandparents and other members of the family. Helpline: **0300 0300 363**. They also provide fact sheets and online support through forums.

### Both Parents Matter Cymru

**[www.fnf-bpm.org.uk](http://www.fnf-bpm.org.uk)**

Both Parents Matter Cymru runs monthly support meetings and with Law Works Cymru and support from local solicitors provides free legal clinics across Wales. Helpline: **08456 004446**.

## Help with understanding your housing rights

Shelter (England) gives housing advice. Phone: **0808 800 4444**. Open Monday to Friday 8am–8pm, Saturday/Sunday 8am–5pm, 365 days a year. Calls are free from UK landlines. Shelter (England) also has advice centres where you can get personal, face to face advice. You can find your nearest advice centre at [https://england.shelter.org.uk/get\\_help](https://england.shelter.org.uk/get_help) or call Shelter on **0808 880 4444**.

Shelter Cymru can advise on urgent housing problems if you live in Wales. Phone: **0345 075 5005** or visit <https://sheltercymru.org.uk/get-advice>. It also runs advice surgeries across Wales. To find out when there is an adviser in your area, see: <http://sheltercymru.org.uk/get-advice/advice-near-you>

## Debt advice

National Debtline can offer you free advice over the phone. Helpline: **0808 808 4000** open Monday to Friday 9am–9pm and Saturday 9.30am–1pm.

StepChange can offer you free advice over the phone. Helpline: **0800 138 1111** open Monday to Friday 8am–8pm and Saturday 9am–4pm. StepChange also has a useful online tool called Debt remedy at [www.stepchange.org/Debtremedy.aspx](http://www.stepchange.org/Debtremedy.aspx)

## More help from Advicenow

A survival guide to using Family Mediation after a break up:  
[www.advicenow.org.uk/guides/survival-guide-using-family-mediation-after-break](http://www.advicenow.org.uk/guides/survival-guide-using-family-mediation-after-break)

A survival guide to sorting out arrangements for your children:  
[www.advicenow.org.uk/guides/sorting-out-arrangements-your-children](http://www.advicenow.org.uk/guides/sorting-out-arrangements-your-children)

How to apply for a court order about the arrangements for your children without the help of a lawyer:  
[www.advicenow.org.uk/guides/apply-court-order-about-arrangements-your-children-without-help-lawyer](http://www.advicenow.org.uk/guides/apply-court-order-about-arrangements-your-children-without-help-lawyer)



More help  
and advice

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

The law is complicated. We have simplified things in this 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.

# advicenow.org.uk

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

Advicenow would like to thank all those who provided feedback on this guide.  
Law for Life – March 2018.

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