

A guide to: Divorce and selling your house

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Should I sell my house before or after a Divorce?

When getting a divorce many people are surprised by the sheer number of financial connections they have made to their spouse, often without considering the long-term impact. Many of these financial connections, such as a Sky subscription, can easily be cancelled and dealt with. There are however, mortgages, home insurance packages, and joint loans taken out to finance items for your marital home that are a little more complicated.

What happens to these associated accounts? How is the money split? What happens if one ex tries to clear the account? We discuss the first steps you should take to ensure that you aren't left in a difficult financial situation.



Should I sell my house before or after a Divorce?

The first steps:

There are a few steps you can take initially to ensure that joint finances are dealt with fairly during the divorce proceedings. Firstly if you've got a joint bank account you should contact your bank and let them know you are separating. They can put restrictions on the account preventing either of you increasing the overdraft or taking out large sums of money.

They can also suspend online or telephone banking and, if relevant, ensure your own and your ex's wages are paid into separate accounts. If you are worried that your spouse may clear out an account and leave you high and dry, ask your bank to freeze your account so that no assets can be accessed by either party.

Remember that any assets removed from joint accounts will be taken into consideration later on so if they take money out of a joint account, they may receive a smaller divorce settlement. If a loan has been taken out in both your names, consider refinancing the existing loans into separate loans of equal value. If you do freeze your account, both you and your ex will need to sign a letter un-freezing it.



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Joint mortgages and loans

It is important to remember that if you took out a joint mortgage or loan then you are both responsible for any accumulated debt. If your ex can't or refuses to pay their portion, then you will be liable (and vice versa). For example, if you took out a loan of £10,000 to renovate your home and buy furniture with and the loan is in both your names, each person is liable for the full debt. This means if your spouse decided not to pay anything towards the debt, you would have to pay the full £10,000. There are some options available to you:

- Inform your bank of the split, and ask them to put restrictions on any joint accounts to prevent further debt.
- Organise an agreement with your bank to make lower monthly payments.
- Organise an agreement with your ex-partner. Either:
 - Keep the account open and continue to make payments from it for agreed upon items.
 - Agree that one of you will pay off the debt/loan and the other will give a contribution.

Can I sell my house before a divorce?

In most instances, this depends on the state of the relationship. If you have good relations with your ex and it was a mutual agreement to divorce, you may be able to sell up before financial settlements are drawn up. In most instances though, this is unadvisable. You should speak to a solicitor to discuss the options that are best for you.

Divorces and breakups are different for everyone, and you'll likely have a different set of financial ties to the next person. Professional advice should always be sought.

Credit cards

When it comes to credit cards, be warned that there is no such thing as a joint credit card – the sole responsibility for the payment of the debt lies with the main cardholder. Also, while you and your ex may come to some sort of payment arrangement in mediation, bear in mind that these will not mean much to creditors, who will still hold the main cardholder liable for the full balance of the debt. Your divorce is separate to your debt arrangements, and neither has any bearing on the other.

When it comes to money and divorce there is much to organise, work out and discuss. Ensuring you talk through your options with your ex to prevent foul play can benefit you both greatly.



How can the house be split during a Divorce

When getting a divorce, common questions surround the splitting of assets. Is it always 50:50? Are all assets split? What if we can't agree? Below we look to answer your queries.

Is it always 50:50?

50:50 is the usual starting point for solicitors and courts, but not necessarily the end point. Depending on how much you and your ex need to live on, who will be looking after your children (if applicable), your abilities to earn and your role in the marriage (i.e. breadwinner or carer) the split can be altered quite considerably.

The judge or solicitor will usually try to ensure all assets are shared out (known as a clean break), so that post-divorce you're not financially tied to each other.

In terms of the home, this can be split in various ways:

- One ex gets the house completely. The other gets assets equal to the house's value. This is typical when children are involved. A Mesher Order may also be agreed to. This can state that when your children leave home, if the ex staying in the house remarries or a new partner moves in, the other will get a share of the house's value. You can discover more about Mesher Orders [here](#).

- If you have a joint tenancy, one ex buys the other out.

It's important to note that if you, or your ex individually owns the house (sole tenancy), this usually has no bearing on who gets the house or how much value you each get from its sale. This is because the house was likely a marital asset you both shared. A judge can also transfer ownership to meet the other's financial needs.

- You both decide to sell the house and share its sale value. This would allow you to put money toward new houses.





What if our house is rented?

A rented home can also be split as it is still considered an asset. As above, the tenancy can be transferred between you both, so long as your landlord agrees. This is more likely if the remaining tenant can afford the rent. If you can't agree on who should remain in your home, you will need to ask the court to decide and your landlord must agree to this court order.

Unfortunately, if you and your ex are joint tenants in a rented home, and one of you gives notice to quit the whole tenancy, then it automatically comes to an end and neither of you will be able to live there. Applying for a court order can prevent this from happening, and talking through your options with your ex is also advised.

What if we signed a pre-nuptial agreement?

You may have signed a pre-nuptial agreement claiming you (or your ex) would get the house in the event of a divorce. Though the agreement is not actually legally binding, it does present the court with good evidence for a claim. The court may decide to honour this agreement, or they may believe doing so would be unfair. Whether the other invested in the house, you both gave full financial disclosure and the current state of both of your financial situations will be taken into consideration, among other factors.

However you decide to split the house and your shared assets, it is advised you have them all valued, as well as determining how much mortgage is left to be paid off (and the cost of paying the mortgage off early – known as, ‘early redemption penalties’). Coupled with legal costs and estate agent fees if you decide to sell, this will give you a better understanding of how much money you will be left with.

If you can agree on a split:

You can avoid going to court, instead asking your solicitor to create a consent order detailing your agreement on how assets will be split, which will be sent to court for approval. Upon approval, the agreement becomes legally binding. If the court does not think the agreement is fair they may change the court order or create one themselves suggesting how you could split your assets. A consent order costs £50.

If you can't agree on a split:

You will need to ask the court for a financial order. This will state who will gain ownership of your home and applying costs around £255. It may involve various court hearings and last between 6-12 months. It is clearly a lengthy and potentially expensive option.

Splitting up assets can seem like an endless process, but one that can be beneficial for both sides. Talking with your ex about what you both want and need can potentially create a more fruitful and less expensive situation. As with anything regarding divorce, thoroughly researching your options will ensure that you are well-equipped to put your case forward.



Can I force the sale of my house during a divorce?

During a divorce, selling the house might seem like the only option that will cover associated costs, providing you with money for your next home and allowing you to get on with your life. It therefore creates a difficult situation if your ex doesn't want to sell. What can you do? What does the law allow? We provide you with the answers.

The only way you can force the sale of your house is by getting a court order, known as an 'Order for Sale'. This asks your ex to provide suitable evidence for why they refuse to sell. Where the court can't find a reasonable counterargument, the Order for Sale states your ex must agree to the selling of your house. The court would then decide each of your shares in the house so that on sale, the value can be divided as specified.

The court will however take many factors into consideration before enforcing the Order for Sale. Are children involved? Has the mortgage been paid off? What are the intentions of both parties? Can you both afford to buy new homes? If both parties would be better off for selling, then it is likely an Order of Sale will be obtained. However, if not, or if your home is in negative equity then this is extremely unlikely.

It is also important to remember that your ex will still have marital home rights during your divorce so any action taken against these rights may be viewed negatively by the court. In extreme cases, your ex may try to take an occupation order out against you. This means that even if you're the sole or a joint owner, you'd have to leave the home, making it impossible for you to sell the house. It also takes months to not only get, but then enforce the court order and can cost in the thousands. Forcing the sale may seem like a good idea, but beware of the potential and unavoidable negatives.

If you are intent on selling the house, consider the following options:

Selling your house to your ex

If you end up getting the house in your settlement, you could sell it to your ex. Depending on what they received (usually money and other valuable assets) they may then have the funds for the sale. This is obviously a win-win situation, as you sell your house and your ex gets to keep it. However, bear in mind the house may sell at a reduced rate to accommodate your ex's desires to keep it.

Buying their share of the house

If you jointly own your house with your ex, you could buy out their share, making you sole owner and allowing you to sell it at will. This process is long-winded but not impossible. You'll need to get the house valued and agree a share price, and then, convince your mortgage lender to change the names on the agreement. They may not comply if they think you initially wouldn't be able to make the repayments and, depending on the market, if the house may take a while to sell. You'll also need a solicitor to change the ownership from joint to sole tenancy. Think carefully about this option as it can incur great costs, eating away at the money you'll eventually make from the sale. It would however provide your ex with money, a benefit that may help them agree to a sale.

Both the process of selling the house and divorce can be difficult, and this is especially the case when disagreements arise. Always try to see your ex's point of view and emphasise how selling would benefit them too. As with anything concerning divorce, discuss all potential options with your ex to try to come to an agreeable solution.

Property valuations when getting divorced and want to sell the house.

When wanting to sell your house fast, getting an accurate property valuation and appraisal are important to speed this process along. Though this can be difficult, involving countless estate agents as well as wanting as high a figure as is possible, there are ways to ensure your house is valued fairly. This quick guide will tell you all you need to know.

The difference between property valuations and appraisals

Appraisals occur when an estate agent evaluates your house and provides an estimation of its value in the current market. They do this by considering your house's location and what properties nearby have sold for recently. Advice is usually given on how the house could fetch a higher value - for example through home improvements such as redecorating a room.

Valuations occur when a surveyor inspects a house and reports on aspects such as structure and defects, providing the potential buyer with enough information to make an informed buying decision. Though this is usually carried out by the buyer, it can be worthwhile for a seller to hire a surveyor, so that defects can be corrected, speeding up the house selling process later on. RICS is a well-known company who conduct various surveys such as their, 'HomeBuyer Report' and, 'RICS Building Survey' taking into account defects, repair options and providing advice for your solicitor or lawyer.



Appraisal Methods

Typically, your lawyer or solicitor will want appraisals from at least three local estate agents who know the area and market well. There are a few methods they may use but the outcome is the same: If you are provided with similar prices at which to sell, you will know that you have been provided with realistic choices. If given confusing variations, you can take an average from the three (or more) prices and then this is the approximate price at which to sell.

Method 1: Comparative Market Analysis (CMA)

The CMA is the most frequently used form of appraisal. It considers similar housing in your area, as well as unique home features that may boost its value, such as location, pool inclusion and expert kitchen facilities. Potential market appreciation and depreciation is also taken into account. If a CMA is carried out, you may receive a market analysis report containing the following information:

- ï Active listings of houses for sale in your area
- ï Pending listings of houses that will be put on the market shortly
- ï Sold listings of houses that have been purchased within the last 6 months
- ï Off-Market lists of houses that were taken off the market for reasons including seller remorse, being priced too highly or agent firing
- ï Expired Listings which includes houses that were unreasonably valued and thus did not sell

With this information, you will be able to find a suitable price to sell your house that relates well to your local area.

Method 2: Income Approach

In cases where your house was bought as an investment (i.e. to sell on for profit) then the present value of the house is estimated based on its expected future value. The appraiser or surveyor works out the houses ability to create profit in the future by making assumptions on potential market prices, resale value and where relevant, income generated by the house. Though this method can be useful as it focuses specifically on your house, it is however dependent on potentially incorrect assumptions. It also discounts current market prices and thus is not based in actual reason.



Appraisal Methods

Method 3: Cost Approach

This prices the house at the amount it would cost to replace it, taking into account land and building value as well as depreciation. For example, if the market value of the land was £50,000, to replace the house would cost £300,000 and depreciation was £50,000 then the value of the property is worked out like this:

$$50,000 + 300,000 - 50,000 = £300,000$$

This may seem a fairer method to property appraisals but some of the figures involved may be based on assumptions and thus not based on reality. The CMA could provide you with a higher value too so you may miss out by settling for its cost price.

Method 4: Do It Yourself

Fortunately, various websites exist that provide you with a quick CMA. Websites such as Zoopla.co.uk, rightmove.co.uk and the Land Registry present you with information such as houses for sale in your local area, how much houses have sold for recently and how much these websites believe your house is worth. This provides you with a quick appraisal, allowing you to price your house. The value gained from these websites can also be used in court should disagreements occur over what price to sell the house at.

These websites generally don't however, provide great detail of local factors. For example, two houses may be similar in layout and structure, but one located close to good transport links and schools would be worthy of a higher price, though some websites may not take this into account. Again, your house may be undervalued and you could lose out on a better price.

Something to bear in mind

Though the appraisal methods mentioned above have their benefits, all can be difficult and time consuming to organise, involving various estate agents and causing disagreements between you and your ex. Especially when you want a quick sale, appraisals can prolong this process unnecessarily. Therefore, as with anything regarding divorce, discuss all potential options with your ex so that an agreeable solution can be reached.

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