

# PARTNERS WEALTH MANAGEMENT

AN INTRODUCTION TO

## Divorce and Separation

WHY IT IS IMPORTANT TO ENGAGE EARLY WITH A FINANCIAL ADVISER

FACTORS TO CONSIDER WHEN GETTING A DIVORCE

PLANNING YOUR FUTURE





Making the decision to separate or divorce can be one of the most emotionally challenging and financially complex decisions you'll ever make. The choices you make may have a long-lasting impact on your lifestyle and finances, the realities of which may not become evident until years later. It is a time when the discreet approach of a professional adviser is paramount.

The Divorce, Dissolution and Separation Act 2020 took effect in England and Wales in April 2022 and has been described as the greatest change to UK divorce law in a generation. This legislation, which will also apply to the dissolution of civil partnerships, removes the concept of fault, thus rendering the divorce process less adversarial to focus on a negotiated settlement.

Reaching a financial divorce settlement can be a complicated and drawn-out process. It requires both parties to fully disclose all their assets which are then put before a judge to agree an arrangement that will meet both their needs. There may be times when the process is adversarial, and you will need our full support. However, we can also work with you as a couple to ensure that your financial planning works for you both as you start a new chapter in your life.

### Why it is important to engage early with a financial adviser

Your solicitor will usually be your first point of contact during your divorce, but their focus will be on the legal process, rather than the long-term financial implications of any decisions made. Often, people do not consider instructing a financial adviser until the settlement has already been agreed. However, taking and implementing financial advice earlier in the process can help you and your solicitor structure your financial settlement in a way that is most advantageous to you, and ensure that the best decisions are made for your circumstances. Your financial adviser can advise on the best division of assets, assist with asset disclosure via the completion of Form E, analyse your future income requirements and assist with administrative paperwork.

Following your divorce, your financial adviser will be there and help you take control of your future and remain on track with your financial planning.



### What may a settlement deliver throughout my lifetime?

Our Lifetime Wealth Model is an online methodology that helps our clients to see all the details of their wealth and assets in one place and help build a clearer picture of what a settlement might deliver throughout your lifetime. It can consider different scenarios, and answer many of the questions you may have, such as:

- Does it make financial sense to stay in my former marital home?
- What level of income can be sustainably generated?
- Is pension offsetting a good option for me?
- When can I afford to retire?

Our Lifetime Wealth Model is designed to support you with your future financial decisions and, most importantly, give you valuable peace of mind.

### Factors to consider when getting a divorce

We can help you by providing both practical and supportive assistance in a variety of ways, which may include considering the following areas:

#### The marital home

One of the most pressing matters for many divorcing couples is the family home and where they will live. A judge's most pressing concern, however, will always be the wellbeing of any children, so it is likely that the primary caregiver will be able to remain in the marital home. Other options may include selling the house and splitting the equity, or one spouse buying the other out.



Dividing the marital property can be complicated – especially where there are existing or new borrowing requirements to consider. The cost of the mortgage and other household expenses might mean that keeping the home does not make the best financial sense.

### Children

The welfare of children will always take highest priority in the eyes of the law. It is important to take a step back and understand the options that will best safeguard your children's welfare, both now and in the future. This may include answering questions such as:

- Can the children remain in the family home?
- What is required financially to maintain the lifestyle to which my children are accustomed?
- Can we continue to meet school fees?
- What can I expect in terms of Child Maintenance?

Your financial adviser can help put financial arrangements in place with your children's wellbeing firmly in mind.

### Savings and investments

Any savings or investments will generally form part of your financial divorce settlement unless they are considered 'non-matrimonial assets', which have been accrued outside of the marriage. They can be relatively simple to divide, but it is important to be aware of the tax implications of selling or cashing in your savings or investments should you have to do so to fulfil the terms of the settlement.

We can advise you on any financial penalties, such as early access fees or Capital Gains Tax (CGT) liabilities, that you may incur when withdrawing money from savings accounts or cashing in investments.

### Individual Savings Accounts (ISAs)

By their nature, ISAs cannot be owned jointly, so any cash or stocks and shares ISAs will be held in your sole name. Nonetheless, this does not exclude your ISA from the matrimonial assets, and it will likely form part of your financial settlement.

ISA transfers cannot be transferred to your ex-partner so funds would have to be withdrawn from your account. Depending on the type of ISA you hold, there may be a penalty if you withdraw money from it or close your account.

### Other tax-efficient investments

Tax-efficient investments such as Offshore Bonds (OSBs), Venture Capital Trusts (VCTs) and Enterprise Investment Schemes (EIS) can be extremely complex at the best of times. During divorce, they can become even more complicated, and it is, therefore, essential to involve a financial adviser with experience in this area.

For example, if OSBs form part of your divorce settlement, how policy segments are transferred, and by whom, will play an important part in mitigating any potential income tax charge.

Please note that tax rates and reliefs depend on individual circumstances and are subject to change.

## Pensions

After property, a pension is likely to be the most valuable asset a person will own – so it is vital that they take a prominent place in your financial planning. It is probable that your ex-partner was named as your beneficiary when you were married. Therefore, you should review your pensions and nominate new beneficiaries to reflect your wishes.

Whether and how your pension is shared between you and your ex-partner will very much depend on your particular circumstances. There are a range of options a judge may consider in order to fairly divide your respective pensions, including:

- **A Pension Sharing Order** – this will inform your pension provider to transfer a percentage of your pension transfer value to your ex-partner, or vice versa.
- **Pension Offsetting** – this is where you trade other assets at your disposal in order to maintain a greater share, or all, of your pension. For example, you might keep all of your pension in exchange for giving your partner the marital home or a greater proportion of your combined savings.
- **A Pension Attachment Order (also known as Pension Earmarking)** – according to this order, a percentage of your pension and/or your pension lump sum will be paid to your ex-partner on a weekly or monthly basis (or vice versa). The beneficiary of a Pension Attachment Order will have to wait until the other party starts taking their pension in order to benefit.

## What happens to my will following my divorce?

While you were married, it is likely that your ex-partner was named as a beneficiary, trustee or executor in your will. This is the same with pensions, therefore, you should nominate new beneficiaries.

After divorce, your spouse will no longer be able to benefit from your will unless you expressly state otherwise. Nor will they be able to act as executor or trustee once your divorce is finalised. This automatic process will not affect the validity of your will. Therefore, during your divorce, it is important to liaise with your solicitor to ensure your will continues to reflect your wishes.



Should you decide to remarry in the future, any existing will in place will be revoked in accordance with the law, unless it is written in contemplation of your union.

Depending on the circumstances of your remarriage, your will may need to be updated with more specific instructions for your assets – for example, if you want to pass them on to your children from your previous marriage.

## Business assets

A court will take account of all marital assets when deciding your divorce settlement – and this includes business assets. Even if one party is not actively involved in the business, they might well be entitled to a share of it upon divorce.

Whilst a court will not look to disrupt a business, especially where this may have an impact on the asset value or the owner's ability to generate income, there will be situations where the only way to divide assets fairly is to break it up or sell it.

This approach can have devastating and long-lasting implications for business owners. It could potentially result in selling a business at a time when the maximum value cannot be extracted. Depending on the circumstances, there may also be the option for one party to buy the other out. A financial adviser can help you understand your options and make informed decisions about your business when you get divorced.



## Protection

It is vital that you are financially protected against serious illness and death, especially if you or your ex-partner are paying maintenance to meet your children's basic needs. This income must be protected as, if you or your ex-partner were to die or fall ill, the surviving parent could face unnecessary financial hardship which could potentially impact a child's quality of life and future chances.

We can help you assess your protection needs, offering valuable peace of mind in the face of future uncertainty.

## Your tax position

Any tax planning opportunities available as a married couple should be used before divorce, and this is particularly important with CGT as married couples may benefit from an interspousal CGT exemption.

Another aspect to consider when putting together the final settlement is to achieve mutually advantageous tax efficiency, which may increase the value of the assets available to you both. This might involve, for example, moving buy-to-let properties into the name of a lower rate taxpayer. Your financial adviser can help to assess your joint financial situation and ensure that measures are put in place to maximise tax efficiency.

Looking to the future, our advisers can work with you to implement a Tax Optimisation Strategy, which will address the payment of future tax bills alongside longer-term tax planning measures. Our investment independence also means that we can assist you in developing a well-researched investment strategy that meets your needs.

## Planning your future

Engaging with a financial adviser early in the process will allow you to obtain a clearer understanding of your potential financial position following your divorce. During your marriage, you may well have made joint financial decisions about the future. As you enter the next chapter, however, the situation may now be different, and your financial adviser will work with you on your objectives and lifestyle requirements going forward.

Our aim is simple and straightforward: to provide you with the peace of mind that comes from knowing that your financial arrangements have been independently reviewed, and that you have a comprehensive plan in place for the future.

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