

# Fair Shares? Sorting out money and property on divorce



*“Prepare yourself, life will be harder. Financially, like I say, no-one comes out of divorce better off than they were before you started.”*

**Divorced Wife**

This research provides the first representative picture in England and Wales of the financial and property arrangements that couples make when they divorce.

The law governing this issue, contained in the Matrimonial Causes Act 1973, has been increasingly criticised in recent years. But much of this criticism has been based on the cases of a few wealthy couples. Very little is actually known about how the law works for the *entire* 100,000 couples or more who divorce each year – the ‘everyday’ divorcees.

## What we did

The study explored three broad research questions:

- What financial and property arrangements do couples make?
- How do they reach these arrangements?
- What are the short-term effects of these?

We collected this information through a survey administered by YouGov of 2,415 recent divorcees, and 53 in-depth online interviews conducted by our research team.

## The reality of the ‘everyday’ divorce

Most divorcees had comparatively modest amounts of wealth on divorce – the median value of their total asset pool (including the net value of the home and any pensions) was only £135,000. 17 per cent had no assets to divide and 63 per cent had assets under £500,000.

Two thirds of divorcees had been owner-occupiers, but 34 per cent of these had homes with a net value (‘equity’) worth less than £100,000. 28 per cent of divorcees had been in rented properties, mainly in the private sector.

Women, particularly mothers, were more likely to have worked part-time during the marriage, to earn less than men and to have smaller pensions.

## Lack of financial and legal knowledge

Over a third (37 per cent) of divorcees did not know the value of their own pension pot. Ten per cent of homeowners with a mortgage did not know what the equity in their home had been and 38 per cent of divorcees felt their knowledge of their ex-spouse’s finances during the marriage was not good.

Whilst lawyers were the most common source of advice about the divorce, 12 per cent of divorcees said they had sought no advice or information. Others relied on a variety of sources, including websites, but some were uncertain or confused about the information available.

## The process of sorting out finances

Only a third (32 per cent) of divorcees made use of lawyers in relation to their financial arrangements, with 42 per cent of those who did not do so deterred by fear of the cost. Yet the amounts spent were relatively low. A quarter of divorcees (24 per cent) had had to find less than £1,000, with a further 18 per cent having costs between £1,000 and £2,999. Nine per cent had costs of £10,000 or more, with higher costs associated with greater wealth.

Over half of divorcees who had reached a financial arrangement had done so by themselves, a further 17 per cent via solicitor negotiation and 13 per cent through mediation. There was some confusion about what mediation was, and it was more likely to be used by those who had been to a lawyer first. Divorcees were more likely to use a lawyer, and to go to court, when they felt unable to negotiate with their ex by themselves.

There was an association between using legal services and women getting a better deal.

## Divorcees' attitudes and objectives

We identified four broad 'types' of divorcee according to their attitudes towards their marriage and their ex-spouse. These types helped explain the arrangements reached in the divorce. **Housemates** took an individualistic approach to the marriage, focusing on who owned what; **parents** gave priority to arrangements for their children; **partners** saw the marriage as a joint enterprise with each making an equal contribution; **unequals** had difficult relationships with partners who dominated decision-making.

## Equal sharing of assets was not the norm

Only 28 per cent of divorcees divided their wealth – including the matrimonial home – roughly 50:50, with the majority sharing out assets unequally because of individual needs (particularly those of their children), or according to who owned what. Debts were generally allocated to who had incurred them. Women were more likely than men to receive more of the equity in the home, while men kept more of the pension wealth.

## Financial outcomes

Half of divorcees who had reached arrangements across all of their assets received less than £50,000. 23 per cent ended up with nothing or only debts and 21 per cent with less than £25,000. Nine per cent came out of the marriage with £500,000 or more.

## The matrimonial home

The most common decision in relation to an owner-occupied matrimonial home (by 46 per cent of all homeowners) was to transfer ownership to one spouse, followed by selling up (29 per cent). Rented tenancies were retained in 47 per cent of cases, with this being more likely for those in social housing.

## Pension sharing

Only 11 per cent of divorcees shared a pension pot. General lack of interest in the pension, and a strong sense that it 'belonged' to the spouse who had been contributing to it, were the main reasons for this. Higher value pensions were significantly more likely to be shared.

## Achieving a financial clean break

Most couples favoured a financial 'clean break'. Only 22 per cent had a spousal maintenance arrangement, usually in favour of the wife, which was nearly always for a fixed term and tied mainly to childcare. There was nothing within our findings to suggest maintenance was being used as a 'meal ticket' for life for wives.

## Child maintenance

Most divorcing parents sorted out child maintenance separately from other financial arrangements. 39 per cent (including those with shared care) did not have a child maintenance arrangement at all. 'Family-based arrangements' (non-binding agreements) were the most common arrangement, with the highest levels of compliance. Parents who made use of the Child Maintenance Service's Direct Pay or Collect and Pay routes had more difficult ongoing relationships with their ex-spouses, and compliance rates were lower.

Although there is no legal duty on parents to maintain their children once they enter legal adulthood, 84 per cent of divorcees who had such children continued to support them for a time after the divorce. Mothers were more likely to do so through enabling children to live with them at home, whilst fathers were more likely to provide financial support.

## Circumstances after the divorce

At the point of the survey, up to five years after their divorce, female divorcees, particularly mothers and those in older age, tended to be worse off than men, even where they had re-partnered.

## Achieving 'fair shares' - policy recommendations

**There is a need for authoritative, accessible and affordable information and legal advice** to provide couples with a clear understanding of the law and how to reach a settlement, with signposting to appropriate and affordable services to help them, such as (but not limited to) mediation, where this is suitable. Couples should be encouraged to obtain consent orders to finalise their arrangements in order to secure certainty.

**A legal presumption of equal sharing of assets would not deliver a fair outcome between many divorcees nor reflect their own priorities.** Given the range in wealth and earning capacity of the divorcing population, and couples' own differing priorities and circumstances, it would be more likely to cement inequality as between husbands and wives, with mothers and older wives doing particularly badly.

**Instead, policy makers should focus their attention on enabling couples to take full account of *all* of their assets and their long-term prospects when deciding on what would be the right outcome for them and their family. In particular, greater consideration needs to be given to how pensions may more easily and more fairly be factored into the arrangements that couples make.**

This briefing provides an overview of the key findings from the research study: 'Fair Shares? Sorting out money and property on divorce'. The full report is available to download from:

<https://www.bristol.ac.uk/law/fair-shares-project/>

The project has been funded by the Nuffield Foundation, but the views expressed are those of the authors and not necessarily the Foundation. Visit [www.nuffieldfoundation.org](http://www.nuffieldfoundation.org)

**Authors:** Emma Hitchings, Caroline Bryson, Gillian Douglas, Susan Purdon and Jenny Birchall

