

Understanding financial provisions on divorce

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Divorce can be emotionally challenging, and navigating the financial aspects can add to the challenge.

[Section 25 of the Matrimonial Causes Act 1973](#) is vital in determining financial provisions following a divorce in the UK. The objective of the court is to achieve an outcome which is as fair as possible in all the circumstances, and in this guide, we will walk you through the key points of Section 25 to help you understand how.

What is Section 25?

Section 25 is a critical piece of divorce legislation that provides guidelines for courts to consider when determining financial settlements.

The court aims to achieve fairness based on the following factors.

- **Needs, obligations and responsibilities**
- **Income, earning capacity and financial needs**
- **Standard of living before the family breakdown**
- **Age, health and contributions**
- **Children**
- **Duration of marriage**
- **Conduct**

The court has broad discretionary powers, so while Section 25 provides guidelines for courts to consider when making a financial provision, there is no standard or statutory formula for calculating the appropriate financial division. The court must consider all the circumstances of the case, including the welfare of any minor children.

When a marriage ends, complex financial matters often arise, including the division of capital and pension assets

and spousal and child maintenance. Section 25 provides a structured approach to addressing these issues.

The Key Factors Considered Under Section 25

Needs, obligations and responsibilities

In many cases, sufficient resources may not be available as one household is effectively split into two, meaning one party may be awarded a greater share of the family wealth because they have a greater need, such as being a primary carer for young children or a lower earning capacity.

If there is a surplus of assets after both parties' needs have been met, the court will consider how they are shared.

Income and earning capacity

One of the primary factors considered under Section 25 is income and earning capacity. The court will examine each party's financial resources, including current income, potential earnings, and any other financial assets.

To ensure a fair outcome, full and frank financial disclosure of assets during divorce proceedings is essential. Disclosure will involve providing documents such as bank statements, pay slips, tax returns, pensions, and details of any investments or properties owned.

The court will also consider the future earning capacity of each spouse. For example, suppose one partner has sacrificed their career or education to support the family. In that case, the court may consider this when determining spousal maintenance.

Standard of living

Maintaining the standard of living enjoyed during the marriage is an essential consideration for the court.

The court will assess the living arrangements during the marriage, including the family home, possessions and overall quality of life. It strives to ensure that neither spouse experiences a significant decrease in living standards after the divorce.

Age, health and contributions

Age and health play a vital role in determining financial provision as they can impact one's ability to work and support themselves.

The contributions made by each spouse during the marriage are also significant factors. These contributions can be financial, such as earning an income or contributing to savings and investments, or non-financial, such as taking care of the household and children.

The court recognises the value of financial and non-financial contributions. It aims to ensure that each spouse receives a fair share of the marital assets based on their contributions.

Children

Under Section 25, children's welfare is a priority. This does not mean welfare is paramount to any other considerations, but the court will want to ensure that any children's housing needs are met in the first instance.

Duration of marriage

The courts will consider the marriage's length when determining financial provisions. Longer marriages may lead to more substantial financial settlements to ensure fairness and address any financial imbalance.

For marriages of shorter duration, the financial settlement may be different as the parties may have fewer shared assets or economic ties. In such cases, the court will still strive to achieve fairness and meet the needs of both parties and any children involved.

Conduct

While the UK follows a no-fault divorce system, Section 25 does permit the court to consider conduct, such as financial irresponsibility or concealment of assets, if it affects the financial situation. However, courts are only

willing to consider conduct if it would be inequitable to disregard it.

Litigation misconduct in financial proceedings refers to behaviour that departs from the expected standards of conduct within the proceedings. It encompasses actions such as providing false information, non-compliance with court orders, intentionally prolonging litigation, and generally attempting to mislead the court.

Such misconduct can result in the court making adverse inferences against a party and making cost orders against them. Parties involved in financial proceedings must comply with the litigation rules to avoid such consequences.

Ensuring a fair and empowering financial settlement

Divorce is a significant life event, and having an experienced legal representative, such as a solicitor, is crucial.

At RIAA Barker Gillette UK, we have the expertise and dedication to help you navigate the complexities of financial provisions under Section 25.

Our team will advocate on your behalf during negotiations or court proceedings, striving to achieve your best possible financial outcome. We understand that the decisions made during divorce can have long-term consequences, and we are committed to helping you build a strong foundation for your future. Whether securing a fair division of assets, ensuring appropriate spousal maintenance, or establishing child maintenance arrangements, we are committed to achieving the best results. We focus on securing a fair and empowering financial settlement, allowing you to start a new chapter with confidence and economic stability.

Negotiation and Mediation

Negotiation and mediation are helpful methods for parties to reach an agreement outside of court regarding financial provisions in divorce. These alternative dispute resolution methods can help parties save time, money, and emotional stress and ensure, where possible, that the parties can resolve matters amicably.

During negotiations, both parties and their respective legal representatives discuss and propose solutions for

financial matters. The goal is to find common ground and reach a mutually agreeable settlement.

Mediation involves a neutral third party, the mediator, who facilitates discussions between the spouses. The mediator does not make decisions but helps guide the conversation toward finding resolutions that work for both parties.

Call 020 7299 6947 and speak to [Pippa Marshall](#) today.

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Note: This article is not legal advice; it provides information of general interest about current legal issues.

