

Divorce: Disentangling the family home

September 2024

In the whirlwind of emotions and challenges that follow a divorce, the fate of the family home takes centre stage. It is not just the financial value of the house but the profound personal and emotional significance it holds at the heart of family life.

In the UK, there is no standard formula for calculating the division of assets after the breakdown of a marriage. The court is guided by several factors in [Section 25 of the Matrimonial Causes Act](#). These factors allow the courts wide ranging powers of discretion, leading to vastly different outcomes. The family home often sits at the core of discussions, as it embodies more than just four walls or a place to sleep—it holds countless emotions and memories for the couple. This can lead to power struggles over who should retain it. So, how will the court decide, and what options are available?

The family home is typically treated as matrimonial property, irrespective of whether it was acquired before the marriage, inherited, or bought with external funds. Decisions about the family home are influenced by several factors, including the couple's financial needs, mortgage-raising capacity, future housing requirements, and the welfare of any children involved.

The property may need to be sold to allow both parties to move forward financially independent of each other. Alternatively, the home may be transferred into one party's sole name. However, one barrier to this option is often the mortgage, as it is typically one of the largest liabilities the couple must address. If one party wishes to retain the home, they would need to release the other party from the mortgage by either taking out their own mortgage or buying out their share using their own resources. For many, this option is simply not feasible.

When children are involved, one of the court's primary considerations is their welfare. This can often lead to one spouse being allowed to stay in the home until the youngest child reaches adulthood, referred to as a 'Mesher order'. This is essentially a deferred order for sale, and for some families, it is the best solution as it allows the children to remain in their familiar surroundings. However, the downside is that one party has to wait, sometimes for many years, for their equity to be released, which can hinder their ability to purchase a new property. It also means the parties remain financially tied to one another, necessitating some level of communication, which does not encourage a fresh start or clean break.

Recently, couples wishing to avoid contentious and prolonged court battles turn to alternative dispute resolution (ADR) methods such as mediation and collaborative law. These approaches encourage cooperation and a resolution-focused practice, where parties share information voluntarily and work constructively to reach a consensus. This significantly reduces the emotional and financial costs of divorce.

At RIAA Barker Gillette (UK) LLP, we understand the stresses involved in navigating divorce and financial proceedings and are committed to providing clear, practical legal advice and support from start to finish. Recognising the need for cost transparency, we have introduced our new "Fixed Price Model". This approach ensures transparency regarding the costs of our services, eliminating the extra anxiety of escalating or hidden costs. Our model covers a range of services, offering comprehensive, enhanced, and premium options for clients to choose what works best for them. From free or discounted initial consultations and financial negotiations

to finalising divorce proceedings, our team of experienced family solicitors is well-equipped in all areas of family law.

Each family is unique, and there is no one-size-fits-all solution. Our approach involves crafting tailored strategies that consider the specific circumstances of each case. Whether it's negotiating a buyout, securing a fair share of the property's value, or arranging a Meshor order, we ensure our clients are fully informed and supported throughout the process.

From fixed price divorce to free initial family law consultations, contact [Pippa Marshall](#) at RIAA Barker Gillette for expert legal advice.

Pippa Marshall
020 7299 6947
pippa.marshall@riaabg.com
www.riabarkergillette.com



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

