

# Breaking up survival guide



## Introduction

This guide is for you if you are in the process of splitting up with your partner who you have lived with. It will be helpful if you are still living together or if one of you has moved out. We know that the next few months are going to be undeniably hard. We want to help you find your way through the maze of practical and legal things you need to sort out so that you can avoid common problems, minimise your stress, and use your energy effectively. This guide will tell you what you need to think about, what the law says, and help you to find ways of agreeing arrangements with your ex. It will also remind you who you need to tell, and explain how to find the help you might need to plan for the future.

This guide is not intended for couples that were married or in a civil partnership because the law as to how you divide any money and property you have is different. However, you may still find the **'What you need to do and who you need to tell'** section helpful.

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Couples that have been living together don't own everything equally in the way married couples or those in a civil partnership do. But most couples have shared a home, have bought things together, and often have shared savings and debts. You and your ex-partner need to work out a fair way of dividing your money, debts and property between you. If you find it impossible to agree there are sometimes things a court can help with, but this is stressful, expensive, and slow so should only be considered as a last resort.

### Things to avoid

Breaking up is always painful, and many people feel tempted to retaliate for the hurt they feel by doing something like:

- Destroying things
- Changing the locks
- Packing up their ex-partner's stuff and leaving it outside
- Running away with the children.

These may give you a short-term feeling of satisfaction, but in the long run they are unhelpful and often unlawful. They will also make relations between you deteriorate further, exactly when you need to start finding ways to agree things.

### If there has been domestic abuse...

If there has been violence or other forms of abuse between you, it may not be a good idea for you to try and sort things out between yourselves. It is best to start by getting some help from a good family solicitor. You can find one on the Resolution website:

**[www.resolution.org.uk/  
findamember](http://www.resolution.org.uk/findamember)**

They will be able to help you work out what the best thing for you to do is, and if you can do it yourself or if you will need legal help. Don't be afraid to phone around and compare prices or see who gives free first appointments.

You may be entitled to free or subsidised legal help – you can check by using the legal aid calculator (**<http://legalaidcalculator.justice.gov.uk>**). If you are, look for a family solicitor who can take legal aid cases.

### What is fair?

The difficulty is that each partner may have a different idea of what is fair. Some will think you should get back the proportion that you contributed, others will think things should be divided equally, or you may think you should divide things according to what you need to start again. There's one thing for sure, you can only divide what you have so most people will need to get used to having less money for a while.

## How are you feeling?

Unfortunately, the emotions that you have to cope with when a relationship ends make it harder to sort everything out fairly, or easily. There's no magic way to stop feeling things, but it is useful to recognise how you are feeling and how it may affect your ability to come to fair agreements. So, how are you feeling?

You may be feeling so hurt and furious that you can't imagine agreeing anything with your ex. Deep down, you may want to punish them for everything you are going through. This is a completely normal reaction – but not very helpful given that you need to come to some agreements with them. The trouble is if you put on your battle armour and embark on a bitter fight now, it'll be very hard to get out of battle mode later. You are likely to stay angry and resentful and ensure your partner feels the same. This will be a waste of your time and energy and will make it harder to come to any fair arrangements. The whole thing will drag on and on, making everything harder for all concerned. If you have children together, it is even more important that you do your best to avoid this.

Or maybe you feel like you just want to run and hide, even if it means leaving loose ends untied. The idea of trying to sort out things fairly may feel just too much if it means negotiating with your ex. But loose ends have a way of tripping you up, and in a few years when you are over the sadness and hurt, you are likely to feel angry and resentful.

Or you may be feeling guilty, rightly or wrongly. You may be tempted to be overly generous in your agreements so that you don't have to feel any worse but that is sometimes not a good approach. You need to ensure that you feel you have come to fair arrangements so that you don't feel angry or resentful a year or two down the line.

Someone advised me to start writing down how I was feeling when I got really angry with my ex. It was a really helpful outlet and meant I didn't keep dumping all my anger on my friends, or worse, my children. **Jane**



# What do you need to decide?

## What do you need to decide?

On these pages we look at the things you need to decide and on p.x we look at ways of deciding them – on your own, with the help of solicitors and/or mediators, or, if it cannot be avoided, going to court.

## Money and property

### 1. Where you will each live

Some of the things you will need to think about are:

- Will one of you stay in the property or will you both need to move?
- If you rent, can you end your tenancy now or are you locked into it for a few more months?
- What would happen to your tenancy if only one of you stayed? Do you have a right to stay in the property if it's only you living there? Can either of you stay?
- If the home is rented or owned only in your ex-partner's name, it may be that you have rights to stay if you take a particular action. What you need to do depends upon your situation. If you are in this position, get advice (see below).
- If the home is going to be sold, how will you divide the proceeds? What will you each do to help sell it quickly?
- If you can't afford for either of you to move out, think about how you can manage to both continue to live in the property. What could you each do to make it easier for each other? (If you get benefits or tax credits, see page 7 for the rules about claiming as a single person if you are still sharing a home with your ex-partner.)
- Will you do it all at once or in stages? Some couples make a short-term and a long-term agreement to fit in with their needs. For example, some couples agree that one partner will stay in the home until it is sold. Or couples with children sometimes agree that one partner will stay in the home with the children until the children have left school, and then sell the home and divide the proceeds.

I was very against the idea of moving. I didn't see why I should lose my home; it wasn't me that wanted to end it. I had put a lot of work into the flat in the 12 years we were together. But looking back on it, I think it helped create the fresh start that I needed. **Lelia**





- Remember even if you move out, if your name is still on the tenancy or the mortgage you are still legally responsible for paying the rent/ mortgage.
- If you own the property solely or jointly and have moved out, you may be entitled to a payment from the person living there, but often people agree that the person living in the property pays all the mortgage payments instead. Whether any payment should be made may depend on how much income you each have, how much the mortgage payments are, and whether any child maintenance should also be paid. Who pays the mortgage after separation may make a difference as to what share of the property you each own. This is an area where you should get legal advice.

Housing law is extremely complicated; you should definitely get advice about what your rights to stay are or what the implications of leaving are. You can get advice over the phone from Shelter's free housing advice line – see **'More help and advice'**.



They also have lots of helpful information about your housing rights when your relationship has ended. We particularly like the 'relationship breakdown checker' from Shelter England – a helpful interactive tool that explains exactly what rights you have.

[http://england.shelter.org.uk/get\\_advice/families\\_and\\_relationships/relationship\\_breakdown](http://england.shelter.org.uk/get_advice/families_and_relationships/relationship_breakdown) – for readers in England.

[www.sheltercymru.org.uk/get-advice/get-advice-online/families-and-relationships/relationship-breakdown](http://www.sheltercymru.org.uk/get-advice/get-advice-online/families-and-relationships/relationship-breakdown) – for readers in Wales.

## 2. How you will divide the things you own

What the law says about who owns what is fairly straightforward:

- If you owned something before you got together, it belongs to you.
- If you bought something with your own money it belongs to you.
- If you inherited something, or someone else gave it to you, it belongs to you.
- If one of you buys something and gives it to the other it belongs to the person to whom it is given.
- If you buy something out of a joint bank account it belongs to you equally, unless you have agreed to own the account in different shares. If you have, you own the object in those shares.
- If you buy something together but each contribute different amounts to the price, you own it in the shares in which you contributed, unless you have agreed otherwise.

If you've been together for a very long time or have always shared your money this may not feel fair or even possible as you may not be able to remember who contributed what. Instead it often feels fairer to each leave with about half. Some people take it in turns to pick the items that are most important to them. Others try and work out a value for things and ensure that the value of the things each ex-partner takes is roughly equal.

**What do you need to decide?**

### 3. How will you divide any savings, investments or shares you own jointly?

Will you divide them, in the proportions in which you contributed or 50:50? What did you agree about this at the outset when you made the savings / got the investments or shares? If you changed your mind later, did you both agree the change?

### 4. How will you deal with any debts?

Legally, if the debt is in your name, you and you alone are responsible to the lender for paying it off; it doesn't matter who spent the money in the first place. If the debt is in both names, you are both equally responsible for paying it off but the lender can usually chase either of you for all of it. If you are leaving your partner with debts you helped to build up, it is only fair that you agree to make a voluntary contribution towards them. Indeed your partner may be able to get a court order that you pay back the value you had out of the loan.

### If you have children together

If you have children you will need to agree:

- 1 Where the children will live.
- 2 When and how you will ensure they have plenty of time with both parents.
- 3 How you will continue to pay for all the things they need.

All parents have a duty to pay for the things their children need until they are 16, or up until they are 20 if they are still doing their A levels or something equivalent. If they are not your children (for example, if they are your partner's from a previous relationship) you are not responsible for them unless you have adopted them.

We've produced a separate guide for parents to help you to agree arrangements that work well for everybody, and to help you find a solution if that is not possible.

Please see **Sorting out arrangements for your children – a survival guide.**



What do you need to decide?

# How to agree them

You can come to agreements:

- between yourselves, or
- using a family mediation service, or
- using solicitors to negotiate on your behalf.

You can of course use different methods to agree different things. Many people can agree arrangements for the children between them, but need help from solicitors to agree what to do about money and property.

However you do it you will both need to compromise.

## Option 1

### Agreeing it yourselves

Agreeing things without help is far from easy. You will need to find ways to discuss the issues without your emotions getting in the way.

We suggest:

- Agree in advance with your ex-partner how and when you will try to come to agreements. For example, will you find a date to meet on neutral territory, do it over email, or will you use a family mediation service? Nobody likes to feel ambushed and you have a much better chance of agreeing something if you both arrive at it feeling that you have chosen this approach and you want it to succeed.
- If you have a lot to discuss, try and agree what is urgent and deal with that first. You may have different priorities, but dealing first with the things that are most worrying for each of you can make things go much more smoothly.
- If you have to discuss arrangements for the children and finances consider dealing with them separately – maybe at separate meetings.
- Many people just want to sort everything out immediately so at least they don't have to deal with the uncertainty. But things often go more smoothly if you take a little bit of time.
- Before you discuss it, think about the outcome you would like and where you can be flexible. If you know what your ex-partner might feel about that, think if there's anything you can do to make it more appealing for them.
- Try to stick to the point as much as you can. If you are meeting in person, having the main points written down on a piece of paper can be helpful and can give you something to focus on if you feel yourself starting to get upset or angry, or if your ex-partner strays from the point.

I know myself that I am much calmer after a long run. When I split up with my partner of 8 years, I made sure I went for a long run before I met her to agree the sale of the house. **AI**



How to agree them

- If you try to do it over email, do bear in mind that it is even easier to take offence when you can't see expressions or hear tone of voice, so keeping yourself calm and sticking to the point is even more important. Remember too that email is a permanent record of what you say and can be printed off and shown to others, such as a judge. So don't send anything you would be embarrassed by later.

#### How to agree them

My ex and I sorted out quite a lot of stuff over email. The best piece of advice I was given was to take two days before replying to any email. That gave me time to get really angry and calm down again before I said anything. **Colvin**



## Option 2

### Using Family Mediation

This is where you meet together with your ex-partner and a mediator, who has been properly trained to help you put your feelings aside and focus on the issues that need to be sorted out. The mediator won't take sides or decide what is fair for you – they are simply there to help your discussions.

Many people say that a positive side effect of mediation is that it helps them to communicate again. This is extremely valuable if you have children together.

Most people have to pay for family mediation. Prices start at around £80 each for each session and most people come to the agreements they need in 2–4 sessions.

When you are looking for a mediator, don't be afraid to phone around and compare prices. (While the fees are usually charged per person, it is open to you and your ex to decide who will actually pay or how the cost will be shared.)

If you are entitled to legal aid (that is help from the government to pay for legal advice or mediation) you can get mediation, and a small amount of legal advice alongside it, for free. If one of you gets legal aid, both of will be covered for the first meeting. You can find out if you are likely to be able to get it by using the legal aid checker – [www.gov.uk/check-legal-aid](http://www.gov.uk/check-legal-aid).

Before you can go to court over the money or property or arrangements for the children, you have to show the court that you have met with a mediator first and considered mediation, or there is a good reason why you didn't (such as domestic abuse or your ex refused to use mediation). This is because the government and the courts think it is usually better that you decide these things between yourselves if you can. For more information about this rule,



how family mediation works and how to find a good mediator, see **Sorting out arrangements after you have split up** – **Could Family Mediation help you?**

I was dead against family mediation. I was already feeling overwhelmed and the last thing I wanted to do was sit and discuss things with her, let alone in front of someone else. But I agreed to go to the meeting for the kids. By the end of the first session it felt like the right thing for us. It's not exactly something I want to do again, but it helped us get things sorted and find a way of talking again, which has made things easier for the kids. **Sam**



### Option 3

#### Using Solicitors to negotiate for you

Your other option is to use a solicitor to negotiate on your behalf. This is likely to be quite a bit more expensive than mediation. It can still be relatively quick and avoids all the expense and stress of going to court. It can feel a lot safer to have an expert on your side, making your case for you. You can find good family solicitors who believe in a constructive approach on Resolution's website: [www.resolution.org.uk/findamember](http://www.resolution.org.uk/findamember) Don't be afraid to phone around and compare prices.

If you are entitled to legal aid (that is help from the government to pay for legal

advice) it will be much cheaper. You can find out if you are likely to be able to get it by using the legal aid checker – [www.gov.uk/check-legal-aid](http://www.gov.uk/check-legal-aid) Be aware though that since the changes in April 2013, very few people get legal aid.

### Option 4

#### Collaborative law

Another option is to each use a collaborative lawyer. This is a bit like a mixture of family mediation and solicitor negotiation. You and your ex-partner each have a collaborative lawyer (not all family solicitors can do collaborative law – they have to have had special training) and you agree that you will not go to court using these solicitors. You then sort everything out in a series of face-to-face meetings between you and your collaborative law solicitor and your ex-partner and their collaborative law solicitor.

Like mediation, collaborative law aims for an amicable solution that both of you have worked out rather than had imposed on you. It may be cheaper than the conventional way of using solicitors because it can mean that you use less of their time.

You can find out more about the collaborative law process and find a collaborative trained lawyer near you on the Resolution website: [www.resolution.org.uk/editorial.asp?page\\_id=53](http://www.resolution.org.uk/editorial.asp?page_id=53)

While it's all going on you have to be extra kind to yourself. Give yourself a few treats – they don't have to be expensive. I gave myself a treat every time I'd done something really hard. **Kayla**



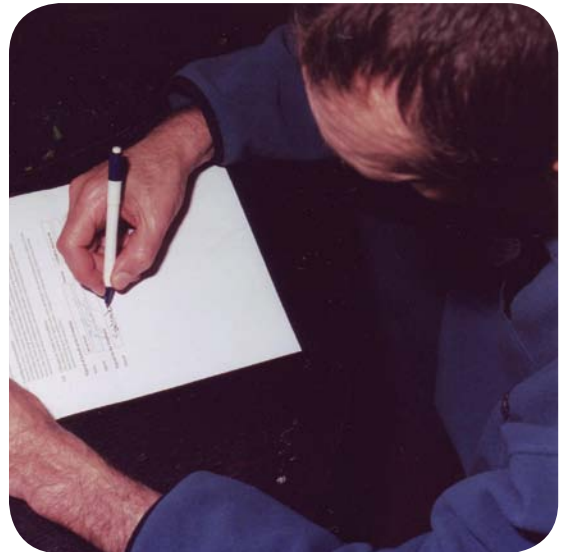
How to agree them

# When you have come to an agreement

When you come to any sort of agreement between yourselves, it is useful to write it down. This should include specifics, like the amount and dates of any agreed payments, in case there is any dispute later on. It is best to have one agreed document that you both sign and have copies of – but better to have your own record than none at all.

If you want something a bit more formal, you could ask a family solicitor to write a separation agreement for you. The plus of a separation agreement is that, if certain formalities are met, you can refer to the agreement at court, which may be useful if your ex does not keep to the agreement.

If you have agreed to transfer property from one person to another you should consult a solicitor. You can find a good family solicitor near you who believes in a constructive, non-confrontational approach on Resolution's website (see '**More help and advice**'). It's ok to phone around and compare prices. Some (like the Co-operative legal services) will offer one-off help for a fixed price; others may offer a first meeting for free.



When you  
have come  
to an  
agreement

# If you can't agree on some issues...

If there are issues around money and property or arrangements for the children that you really can't agree on, you may have to ask the court to decide. Sometimes starting the court process helps to get your ex-partner talking and focussed on the need to make agreements.


Remember that the court will usually want evidence that you have met with a mediator first and considered mediation, or tried to, before they will consider making a decision for you. See **Sorting out arrangements after you have split up – Could Family Mediation help you?** for more details about these rules.

Before you even contemplate it, see a good family solicitor. They will be able to advise you on what your chances of success are and help you work out if it's worth it. If you decide it is worth it, you can then decide whether to get a solicitor to help you make your case or if you want to try and do it yourself.

You can find good family solicitors who believes in a constructive, non-confrontational approach on Resolution's website: **www.resolution.org.uk/findamember** Don't be afraid to phone around and compare prices.

Action Guide

Sorting out arrangements after you have split up



Could Family Mediation help you?

Introduction

This guide is for you if you have recently split up or are struggling to agree with your ex-partner (or another family member) about what's going to happen to your home, money, children or any other issues. It doesn't matter if you were married, in a civil partnership, living together, or never did any of these things.

This guide explains what family mediation is and how it could help you. Before you can take a family issue to court, most people have to show that they have thought about using mediation. We explain what that is all about, who has to do it, how you do it, how to get the most out of it and what your other options are.

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How the information and assessment meetings work

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Family mediation is not about getting back together. In fact it is the opposite, family mediation aims to help you to agree how you will live apart.

advice**now**.org.uk



If you can't agree on some issues...

# What you need to do and who you need to tell

## Benefits

If you are on a low income, check if you might be entitled to benefits or tax credits now you are a single person. Turn 2 Us have a very helpful benefits calculator on their website: [www.turn2us.org.uk/benefits\\_search.aspx](http://www.turn2us.org.uk/benefits_search.aspx)

If you are no longer a couple but still share a home, you can apply for benefits as a single person provided you are living as a single person. For example, you are not sleeping in the same bed, not cooking or shopping for each other, washing each other's clothes, or paying for things as a couple. See **Benefits and living with your partner** for more details.

If you get benefits or tax credits, make sure you inform the agency that deals with that benefit that you are no longer living as part of a couple. This may be a department of the Department for Work and Pensions, the HM Revenue and Customs, and your local authority (for housing and council tax benefit). If you have moved, you also need to ensure they all have your new contact details.

## Debts

If you have debts in both names and have agreed that one of you will be responsible for paying it off, inform the credit company of your agreement and give them up to date contact details for both of you. Your private agreement does not change the fact that you are both liable for the debt, but if they understand the arrangement and can contact you they should let you know if the payments are not being made. This is important because if your ex doesn't make the payments the company may

take debt recovery proceedings against both of you. They don't have to serve you with notice of the proceedings in person; they can just send a letter to your last known address. You could wake up one day to discover that a county court judgement has been made against you, without you knowing anything about it.

If your debts are a problem, see if you can get debt advice from your local advice agency, National Debtline or Step Change. Step change also has a useful online tool called Debt remedy. See **'More help and advice'**.

## Joint accounts

The easiest thing is probably to close all joint accounts and divide any money in them. If you decide it would be easier for one of you to keep an account, make sure you let your bank know the situation, and change the account into one name only. If you don't, your partner could empty the account or run up a huge overdraft that you will both be legally responsible for.

Having said that, closing or removing a name from a joint account isn't always as easy as it should be. Some banks will only take the instruction from the 'main account holder', which is simply the person whose name was put first on the form when the account was opened. To save any hassle, write a quick note to the bank manager straight away explaining what you want them to do and then both sign it.

If you have problems closing the account you can ask the bank to freeze it – stopping any payments going out. This stops the other account holder

What you need to do and who you need to tell



running up a big debt on it but it also stops bills being paid direct from the account. So make sure you have made arrangements for regular direct debits and standing orders before freezing the account.

## Will

If you have a will that leaves your ex-partner all your worldly possessions, remember to destroy your will. Do this even if you are not yet ready to make a new one. If a solicitor drew the will up for you, inform him or her, so that they know that the will has been revoked.

## Pension or life insurance

If you have nominated your partner to receive death benefits from your pension, or the pay out from a life insurance policy, remember to change this. Call the companies concerned and discuss the situation.

## If you are staying in the home

- It is important to ensure that the correct name is on the utility bills, council tax etc. Otherwise the other partner could be pursued for payment.
- Inform your landlord or mortgage lender that your partner has now left.
- Inform your home insurers that your partner has left.
- If you are now the only adult in your household be sure to tell the Council Tax Department at your local authority. If you fill in the relevant form you will be entitled to a 25% discount on your council tax. You can do this online [www.gov.uk/apply-for-council-tax-discount](http://www.gov.uk/apply-for-council-tax-discount)

While I was going through my break-up I started to take lots of regular exercise, for the first time in my life – it made me feel much less stressed and helped me to sleep. **Esme**



## If you have moved out of the home

Make sure that you inform:

- The bank and all credit companies or anyone you have a hire purchase agreement with
- Your doctor, dentist, and any other health workers
- If you have children, inform the child's school or nursery
- Water, gas, electricity and telephone companies
- The Post Office if you need your post to be redirected
- The company you have your buildings and/or contents insurance with.

**What you need to do and who you need to tell**

# More help and advice

## How to find a family mediator

Ask friends and family for a recommendation or your solicitor if you have one. Or use the family mediation finder provided by the government to find one near you.

**[www.familymediationhelpline.co.uk/find-service.php](http://www.familymediationhelpline.co.uk/find-service.php)**



Mediators who do Legal Aid funded mediation have completed further training that can last around two years – you can search for them by ticking the bottom box on the search tool.

Some people feel safer with a mediator who is also a qualified solicitor. They can't give you legal advice but they are obliged to tell you if you are about to make an agreement that is very different to what a court would order. If you want a mediator who is also a solicitor, use the search on Resolution's site. In the results it specifies how long the mediator has been a family law solicitor.

**[www.resolution.org.uk/findamember](http://www.resolution.org.uk/findamember)**

Don't be afraid to phone around and compare prices.

## How to find a good solicitor

Ask friends and family for a recommendation. Or you can find a good family solicitor near you who believes in a constructive, non-confrontational approach on Resolution's website: **[www.resolution.org.uk/findamember](http://www.resolution.org.uk/findamember)**

It's ok to phone around and compare prices. Some (like the Co-operative legal services) will offer help for a fixed fee; others may offer a first meeting for free.

## How to find a collaborative lawyer

You can find your nearest collaborative lawyer on Resolution's website too: **[www.resolution.org.uk/findamember](http://www.resolution.org.uk/findamember)**

## How to find a barrister

If your case goes to court your solicitor may represent you, or they may instruct a barrister for you. Barristers are specialist advocates and usually only used for complex or contested cases. Your solicitor can advise on a suitable barrister and you can look them up on their website.

If you are dealing with the court process yourself but want a barrister to represent you at a hearing (or draft documents for you) it may be possible to instruct one without using a solicitor first. You can find barristers that specialise in family law and are public access accredited at **[www.barcouncil.org/about-the-bar/find-a-barrister/public-access-directory](http://www.barcouncil.org/about-the-bar/find-a-barrister/public-access-directory)**

## How to see if you can get Legal Aid

You can check if you might qualify for Legal Aid at [www.gov.uk/check-legal-aid](http://www.gov.uk/check-legal-aid)



## Help with understanding your housing rights

### Shelter

Shelter can provide housing advice over the phone or in a housing advice centre.

You can find your nearest advice centre here: [http://england.shelter.org.uk/get\\_advice/advice\\_services\\_directory?pc=&Search+Locally=](http://england.shelter.org.uk/get_advice/advice_services_directory?pc=&Search+Locally=)

Helpline (for callers from England):  
**0808 800 4444**

Open 8am–8pm Monday–Friday,  
8am–5pm Saturday–Sunday

Calls are free from UK landlines and main mobile networks (Vodafone, O2, EE and Virgin Mobile).

### Shelter Cymru

Shelter Cymru asks that callers in Wales only use their helpline if it is an urgent problem. For less urgent problems they ask you to contact your nearest housing advice centre. Find yours here [www.sheltercymru.org.uk/contact-us/our-offices](http://www.sheltercymru.org.uk/contact-us/our-offices)

## Debt advice

### National Debtline

National Debtline can offer you free advice over the phone.

Helpline: **0808 808 4000** – open Monday–Friday 9am–9pm, and Saturday 9.30am–1pm

They also have a useful online tool called my money steps – [www.mymoneysteps.org](http://www.mymoneysteps.org)

### Step Change

Helpline: **0800 138 1111** – open Monday–Friday 8am–8pm, and Saturday 9am–4pm

Step change also has a useful online tool called Debt remedy – [www.stepchange.org](http://www.stepchange.org)

## More information

### Sorting Out Separation

This government tool provides information for separating couples and parents. You can browse by topic to find general information, links, useful tools and videos on a range of separation issues. Or, use the tool to make your own plan.

[www.sortingoutseparation.org.uk/en/hub.aspx](http://www.sortingoutseparation.org.uk/en/hub.aspx)

More help  
and advice

The information in this guide applies to England and Wales only.

The law may be different if you live in Scotland or Northern Ireland.

The law is detailed and complicated. We have simplified things in this guide to give you a basic understanding of how the law works when you split up with a partner that you were not married to or in a civil partnership with. If in doubt, get expert advice.



**advice**now.org.uk

This information is produced by Advicenow. You can find lots of user-friendly information on a range of different issues on the Advicenow website.

Plain  
English  
Campaign

“Advicenow is the liveliest, least stuffy, most accessible and understandable website on legal matters that I’ve ever come across.”

Plain English Web Award 2004

**Marcel Berlins, *The Guardian***

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