



Tony Foss  
Solicitor



Rachel Shoheth  
Solicitor



Anne Shears  
Solicitor

## Financial settlements

---

One of the most difficult matters to deal with when a relationship breaks down is who gets what. In divorce proceedings and under dissolution orders for civil partnerships this is commonly termed reaching a financial settlement.

### Don't I just get half?

A common expectation is that there will be a 50/50 split of the combined assets (and debts) of the partners. The reality is that life is rarely that simple.

### So how do I get a 'financial settlement'?

It is normally better, emotionally and financially, if the partners can agree between themselves how the assets should be split. This would normally be negotiated through their respective solicitors.

In order to reach an agreement you will first need to have all the facts. Both partners should fully and honestly tell the other about all of their assets and discuss with them their future plans, i.e. any intention to re-marry. The two of you then need to think about the things that a court would consider in reaching a decision. These include:

- The welfare of any children
- Each person's income, assets and earning capacity
- Each person's financial needs
- The standard of living for each before the marriage broke down
- The age of each person and how long the marriage lasted
- The contribution of each person to the family's welfare (including bringing up children)
- Any serious disadvantage caused to either person by the end of the marriage

Once agreement is reached it will be drafted as a consent order for the courts approval.

**GARD & CO**

---

4 Bretonside, Plymouth  
Tel: 01752 668246  
[www.gardandco.com](http://www.gardandco.com)

## **What if we can't agree?**

This is not unusual, despite the best intentions of both partners. Sometimes there is just one thing at the root of the disagreement and sometimes the partners have completely differing views. Whatever the disagreement, if you have reached a point where further discussion is fruitless, or worse, then you will need the help of the court. Whilst this may seem daunting your solicitor will advise you, make all the arrangements and prepare all the necessary documentation for the case.

## **What happens at court?**

There are potentially three court hearings, depending on what can be agreed between the parties.

### **Initial hearing**

This is a short preliminary hearing. The judge will listen to brief details about the case from both sides and will then issue an order for directions. This tells the parties what they need to do before the next hearing.

### **Financial Dispute Resolution hearing**

The second hearing is called the financial dispute resolution hearing and takes place about 8-10 weeks after the first. The judge will have been provided with all the financial and circumstantial evidence prior to the hearing and will listen to submissions from both parties solicitors. You will not be cross examined by anyone. The judge will then make suggestions about what he might decide at a final hearing if the parties cannot agree the matter between themselves. The parties then leave the courtroom and try and reach an agreement. If they can, the judge will then be asked to approve the terms of the agreement and the solicitors will draw up an order. If not then a final hearing will be necessary.

**GARD & CO**

4 Bretonside, Plymouth  
Tel: 01752 668246  
[www.gardandco.com](http://www.gardandco.com)

## Final Hearing

This is a long, formal hearing that usually takes a whole day (and, if the matter is very complex, longer). Evidence is given, under oath and cross examination, by both parties. This can be extremely taxing and stressful and you will be asked many questions about your finances and personal life, for instance details of any new partner and their finances.

After hearing the evidence the judge will consider it in light of the factors outlined under 'So how do I get a 'financial settlement'?. He/she will then make a final order.

The final order is unlikely to be exactly what either party wants. It will be a compromise between the two. As you can imagine the financial, and emotional, cost rises throughout the process and balloons at the final hearing. With a compromise always the most likely outcome we usually urge our clients to reach an acceptable agreement before the final hearing.

If you would like further advice on financial settlements please contact Tony, Rachel or Anne or visit [www.gardandco.com](http://www.gardandco.com).

GARD & CO

4 Bretonside, Plymouth  
Tel: 01752 668246  
[www.gardandco.com](http://www.gardandco.com)