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Myerson **Family**

**Our guide to financial provisions for unmarried
couples**

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Welcome

We understand the complexities of modern life and, therefore, everything we do is ultimately about you, and it is important you get to know the team that will be working with you every step of the way. It's a deep source of satisfaction that so many clients choose Myerson as their trusted adviser.

Why Myerson?

Our highly experienced and discreet family lawyers, provide clear and supportive legal advice, tailored towards your individual family needs.

As a Top 200 UK Law Firm, we are also proud to be ranked as '**Top Tier**' in the prestigious international directory **The Legal 500**, and commended by The Times '**Best Law Firms 2023**'. This means you can be certain that you will be receiving the highest quality legal advice.

Being a full-service law firm means we are well placed to provide wide-ranging, tailored legal advice to meet your individual needs. We work closely with other departments internally including Real Estate, Corporate, Commercial and Private Wealth Lawyers to ensure that your needs are protected comprehensively.

You can find out more about our **Family Team** by clicking [here](#).



Financial provisions for unmarried couples

Where possible and safe to do so, the court expect parties to try to resolve disputes about children without using the court system.

Our experienced solicitors can help you to negotiate child arrangements best suited to your personal circumstances.

If you are an unmarried parent, you may be wondering what financial claims you may have if you separate from the other parent.

Child Maintenance

The most common method of ensuring financial support is to claim child maintenance from the non-resident parent. This can be agreed by consent or, assessed by the Child Maintenance Service.

For details of how much child maintenance is payable, you can access the Child Maintenance Calculator available at www.gov.uk.

In certain circumstances, you can apply for 'top up' maintenance and this is explored in more detail below.



Claims under Schedule 1 Children Act 1989

Periodical Payments

These are regular child maintenance payments made by the non-resident parent in situations where the Child Maintenance Service are not able to deal with the claim for maintenance, such as:

- Where 'Top up' child maintenance is claimed. If the non- resident parent earns more than £3,000 per week gross, the Child Maintenance Service will need to make a maximum child maintenance assessment, which will enable a claimant parent to apply to the court for a 'top up' maintenance order to meet the child's needs.
- Where the Child Maintenance Service do not have jurisdiction. For example, the non-resident parent lives abroad.
- Where the child is disabled and the periodical payments are needed to meet some or all of the expenses attributable to the child's disability.
- Where periodical payments are needed to pay for private school or training for a trade, profession or vocation and the payments are needed to meet some or all of the expenses incurred.

Housing

The Court can make an order for the settlement or transfer of property from one party to the other, for the benefit of the child. This is to ensure that the child has a property to live in, usually for their minority.

That property can then be occupied by the child and the resident parent. This property will then usually revert back to the non-resident parent when the child is 18 or has completed full time education.



Lump Sum Payments

The Court can make an order for a lump sum of money to be paid to fund capital needs for the child. For example, to fund the purchase of furniture, a car, educational equipment or even house removal costs.

An order for payment of a lump sum of money must be for the benefit of the child. A lump sum may be payable by instalments. Repeat applications for lump sum payments can be made.

Legal Services Order

This is an order requiring one parent to pay to the other money to enable them to pay their legal fees. It is important to show that the payments are required to enable the parent to obtain legal services for the purpose of the proceedings where they would not otherwise be able to afford to pay.

In each case, the court will consider:

- 1.The income, earning capacity, property and other financial resources which the parents have or are likely to have in the foreseeable future;
- 2.The financial needs, obligations and responsibilities which the parents have or are likely to have in the foreseeable future;
- 3.The financial needs of the child;
- 4.The income, earning capacity (if any), property and other financial resources of the child;
- 5.Any physical or mental disability of the child;
- 6.The manner in which the child was being, or was expected to be, educated or trained.

The child's welfare will be one of the considerations.

Either the parent or the child themselves can apply for any of the orders as outlined above.

If the child is making the application, he or she must be at least 18 years old and either is or will be receiving instruction at an educational establishment or undergoing a trade profession or vocation or, there are special circumstances which justify the making of an order.



Who can apply for orders under Schedule 1?

Either the parent or the child themselves can apply for any of the orders as outlined above.

If the child is making the application, he or she must be at least 18 years old and either is or will be receiving instruction at an educational establishment or undergoing a trade profession or vocation or, there are special circumstances which justify the making of an order.

Schedule 1 – The Court Process

1. Before applying to the court for an order under Schedule 1, parties must attend a Mediation Information and Assessment Meeting (MIAM) with a mediator, unless an exemption applies.
2. Application to the Family Court on Form A1. A court fee of £215 is payable.
3. The Court serves the application on the Respondent and gives notice of the first hearing date which will be between 4-8 weeks of the filing of the application.
4. Within 14 days after the issue of the application, the parties must simultaneously exchange a financial statement (Form E) and file it with the Court.
5. First Hearing
 - All parties must attend.
 - Unless the Court is able to determine the application at the first hearing, the Court may direct that further evidence be filed and set a date for a directions hearing or appointment or final hearing.
6. Directions Hearing
 - The Court will hear evidence from the parties and try to narrow the issues in dispute.
 - If parties reach an agreement, the Court can record this in an order.
 - If parties cannot agree, the matter will be listed for a final hearing.



7. Final Hearing

- The judge will consider all of the evidence and make an order to determine the issues in dispute.
- The order is binding on both parties.

Unmarried Property Rights

Joint property

If you jointly own a property with your ex-partner, there is a presumption that the property is owned equally in the absence of any declaration of trust. The title of the property will show who the legal owner of the property is. This is easily obtained from the Land Registry.

If a joint owner seeks to argue that they own more than a 50% share, they will need to try and prove this. They would need to show that there was a common intention to own the property in unequal shares when the property was purchased, or that they subsequently formed a common intention that their respective interests would change.

Property in the sole name of one party

If a couple live in a property which is held in the sole name of one party, it may be possible for the non-owner party to establish an interest in the property. There are various ways in which an interest can be established, the most common being direct financial contributions by the non-owner party. If the non-owner can establish that direct contributions were made by them towards the property or mortgage, this may result in an interest proportionate to the amount contributed.

Evidence of financial contributions is crucial, and it is therefore important to ensure that monetary contributions are transferred electronically, from one account to the other, or directly towards the mortgage, so that bank statements can be produced if necessary



What orders can be made?

A court can order:

- A sale of the property;
- A declaration of the parties' beneficial interest; or
- Compensatory orders.

For advice in relation to a potential property claim against a former partner, please contact a member of our [property litigation team](#).



You're in safe hands!

If you would like further information about how we can help you with your **separation**, or if you have any questions, please don't hesitate to contact a member of our **Family Law Team** today.

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