money and property on divorce: ancillary relief explained

CON LAVERY & CO
A MEMBER OF THE LAW GROUP

Client briefing · October 2026 · disclosure, pensions, maintenance, business and inherited assets, settlement

The second of three family law guides

A divorce ends the marriage, but it does not divide the money. That is done through ancillary relief: the court's power to make financial orders about income, property, savings, businesses and pensions. This guide explains how the court approaches that task in Northern Ireland, the difficult issues that arise, and how we help you reach a fair result. It follows our guide Divorce in Northern Ireland; a third guide, Children and family breakdown, covers arrangements for children.

Fair in all the circumstances

The court's powers come from Articles 25 to 27 of the Matrimonial Causes (NI) Order 1978. There is no formula. The court's task is to reach a result that is fair in all the circumstances, giving first consideration to the welfare of any child of the family under 18.

Northern Ireland courts follow the leading decisions of the House of Lords and Supreme Court, especially White v White and Miller v Miller; McFarlane v McFarlane. These set out three guiding principles:

- Needs: both parties, and above all the children, should be housed and provided for as far as resources allow.
- Sharing: assets built up during the marriage are the product of a partnership and are normally shared, with equality as the yardstick.
- Compensation: occasionally, for a spouse who gave up a career and suffered a lasting loss of earning power.

The key points in one place

Question	Short answer
Does fault matter?	Almost never
Is it 50:50?	Equality is the starting point for shared assets, but needs often justify a different split
Do pensions count?	Yes, and they are often the largest asset after the home
Do inherited assets count?	Usually treated differently, but they can be used to meet needs
Can I hide assets?	No. Non-disclosure leads to adverse findings, costs and the order being set aside
How long?	Agreed cases a few months; contested cases often 9 to 18 months
Are prenups binding?	Not automatically, but they can carry decisive weight

Agreement

Most cases settle by negotiation or mediation. The agreement is then made into a consent order.

Court application

If agreement is not possible, either spouse can ask the court to decide.

Final order

Whether agreed or imposed, only a court order is binding and enforceable.

Debts count too

Mortgages, loans, credit cards and tax bills are deducted. Debts run up for one spouse's own purposes may be left with that spouse.

The home in the meantime

Both spouses usually have a right to occupy the family home until the court orders otherwise. Moving out does not lose your share, but take advice first.

Children first

Housing and supporting the children shapes almost every financial outcome where children are young.

Full and frank disclosure, hidden assets, and how the court compels cooperation

The duty of full and frank disclosure

Each spouse must give the other, and the court, a complete and honest picture of their finances. This is a continuing duty: it lasts until the final order, and any material change must be disclosed. It covers:

- income from all sources, with payslips, P60s, tax returns and accounts;
- bank, savings, investment and credit union accounts, usually with 12 months of statements;
- property in Northern Ireland, the Republic or elsewhere, with mortgage statements;
- businesses, shareholdings, partnerships, farms and farm entitlements;
- pensions, with a cash equivalent transfer value for each;
- debts, liabilities and expected future income, bonuses or windfalls.

Disclosure is given on an affidavit of means, sworn as true, with supporting documents. Each side can then raise a questionnaire about gaps and inconsistencies.

Lifestyle tells a story

Where a spouse runs a cash business or claims a modest income, their spending often tells a different story: holidays, cars, school fees, credit card spending. Comparing declared income with lifestyle is a standard and effective way of testing disclosure. The court can find that a spouse's true income is higher than declared, and make its order on that basis.

CETVs: valuing pensions properly

Every pension must be valued by a cash equivalent transfer value (CETV), obtained from the scheme. For defined contribution pensions it is usually a fair guide. For final salary schemes, such as the civil service, police, health and teaching schemes, the CETV can significantly understate the true value. An actuary's report is often needed to compare pensions fairly or to calculate a fair share.

When a spouse hides assets

The warning signs include unexplained cash withdrawals, transfers to family members, a business that suddenly does badly, delayed bonuses, new "loans", and money moved abroad or into cryptocurrency. The court has strong tools:

Tool	Effect
Orders for disclosure	Specific documents must be produced by a deadline
Third-party disclosure	Banks, accountants, employers or companies can be ordered to produce records
Adverse inferences	The court can find that a spouse has more than they admit, and divide the assets on that basis
Freezing and preventive injunctions	Stop assets being sold, moved or spent
Setting aside transactions	Dispositions made to defeat a claim can be reversed
Costs orders	The non-disclosing spouse pays the cost of uncovering the truth
Contempt of court	Breach of an order, or a false affidavit, can lead to fines or imprisonment

Orders can be reopened

A financial order obtained by non-disclosure or fraud can be set aside years later, even if it was agreed. Hiding assets does not pay.

Do not help yourself

Taking or copying a spouse's private papers, emails or passwords can be unlawful, and the material may be excluded. Tell us what you know, and we will use the proper procedures to obtain it.

Masters' directions, timescales, maintenance pending suit and the FDR

How a contested case runs

In the High Court, ancillary relief is case-managed by the Masters of the Family Division, under practice directions that require early disclosure, focused questionnaires and a timetable. In the County Court, the judge gives similar directions.

1 Application
A claim for ancillary relief, usually made in the divorce petition and then activated.

2 Affidavits of means
Both parties exchange sworn disclosure by a set date.

3 Directions
The Master sets a timetable for questionnaires, valuations, pension reports and expert evidence.

4 Valuations and replies
Property, business and pension values are obtained, and questionnaires answered.

5 Settlement hearing
A financial dispute resolution (FDR) or review appointment focused on agreement.

6 Final hearing
Evidence from both parties, and an order imposed by the court.

Agreed cases can be completed in a few months. A contested case commonly takes 9 to 18 months, longer where businesses, farms or international assets must be valued.

> Preparing for the FDR
>
> Make sure all valuations and pension reports are in, a clear schedule of assets has been agreed, and you know your realistic range. Make a sensible offer beforehand. Come prepared to stay all day and to make decisions on the day.

The FDR: what it is and how it works

A financial dispute resolution (FDR) appointment is a meeting with a judge or Master whose sole purpose is to help the parties settle. Each side sets out its offers, and the judge gives a frank, non-binding indication of the likely outcome at a final hearing.

- Everything said is without prejudice and cannot be used at the final hearing.
- The FDR judge cannot hear the final hearing.
- Parties attend in person and negotiate at court, often through the day.
- Many cases settle at or shortly after the FDR, saving the much higher cost of a final hearing.

Maintenance pending suit

From the start of the divorce until decree absolute, the court can order one spouse to make interim payments to the other, known as maintenance pending suit. It is designed for the spouse who has no or little income of their own while the case is decided.

- It is based on reasonable immediate needs: housing costs, bills and day-to-day living.
- It is decided quickly, on limited evidence, often within weeks.
- It ends at decree absolute, when interim periodical payments can take over until the final order.

> Mediation
>
> Family mediation, with a trained mediator and both spouses, often resolves financial issues at a fraction of the cost of court. Lawyers advise alongside and turn the agreement into a consent order. It is voluntary, and not suitable where there is abuse or a serious imbalance of power.

> Collaborative law
>
> In the collaborative process, each spouse and their specially trained lawyer commit to resolving matters through round-table meetings, without going to court. If it fails, both must instruct new lawyers, which gives everyone a strong incentive to agree.

How assets are shared: contributions, marriage length, inheritances and businesses

The factors the court weighs

Article 27 factor	In practice
Income, earning capacity and resources	Now and in the foreseeable future, including what a spouse could reasonably earn
Needs and obligations	Housing for each, especially the parent with the children
Standard of living	Relevant, but not guaranteed after separation
Ages and length of marriage	Shapes how much is shared and for how long
Disability	Increases needs, and can justify long-term support
Contributions	Financial and domestic contributions are valued equally
Conduct	Only if it would be inequitable to ignore it
Lost benefits	Chiefly pension and widow's rights

Money earned and work at home

The court does not prefer the earner over the homemaker. Bringing up children and running a home are treated as equal contributions to earning the family income. A spouse who earned all the money cannot claim a larger share on that ground alone. A genuinely exceptional "special contribution" is very rarely recognised.

Long and short marriages

After a long marriage, all the assets are usually treated as shared, and needs, often generously assessed, may take up most of them. After a short marriage without children, the court is more likely to return each spouse broadly to their position before the marriage. Cohabitation that moved seamlessly into marriage normally counts as part of the relationship.

Inherited and pre-marital assets

Assets brought into the marriage, or inherited or gifted by one spouse's family, are often treated as non-matrimonial and may be excluded from sharing. But:

- they can still be used to meet the other spouse's and the children's needs;
- an inheritance that has been mixed into family assets, such as paying off the mortgage, may become shared;
- the longer the marriage, the weaker the argument for excluding it.

Future inheritances are usually disregarded. While a parent is alive, they can change their will or need the money for care. Only where an inheritance is near-certain and imminent might the court take it into account.

Who gets a share of a business?

A spouse's business or shares are an asset like any other. A forensic accountant normally values them, considering profits, assets, liquidity and the tax payable on extraction. Because the business is often the family's income, the court tries not to kill the goose that lays the golden egg:

- the owner may keep the business, with the other spouse receiving more of the other assets;
- lump sums may be paid by instalments;
- a business owned by parents or siblings is not the spouse's asset, but any interest the spouse does hold, and the income it provides, will count.

> Farms
>
> Family farms raise the same issues, with added complications: land often inherited through generations, low income compared with capital value, single farm payment entitlements, and farming partnerships. Valuation and liquidity are central.

Pension sharing, spousal maintenance, child maintenance and education

Pension sharing orders

A pension sharing order, available under the Welfare Reform and Pensions (NI) Order 1999, transfers a percentage of one spouse's pension into a fund in the other spouse's own name. It achieves a clean break on pensions. The alternatives are:

- Offsetting: one spouse keeps the pension and the other takes more of the other assets. Simple, but pound-for-pound offsetting is rarely fair, as pension value is not the same as cash.
- Attachment: part of the pension is paid to the other spouse when it comes into payment. It does not achieve a clean break and ends on death or remarriage.

The aim may be to equalise pension income in retirement rather than CETVs, especially where one pension is a final salary scheme. Only the part built up during the marriage may be shared after a shorter marriage.

Spousal maintenance

- How much: based on the recipient's reasonable needs and the payer's ability to pay, judged against the marital standard of living.
- How long: the court must consider whether a clean break is possible, and whether maintenance should be for a fixed term so the recipient can adjust. Lifelong orders are now uncommon. Maintenance ends on remarriage, and can be varied if circumstances change.
- Going back to work: a parent who stayed at home is usually expected to increase earnings as the children grow, with a realistic transition. The court looks at qualifications, the time out of work, health and the children's needs. Nobody is forced to work, but the court can assume income that could reasonably be earned.

Either spouse can apply to vary maintenance if circumstances change, for example on a job loss, a new income or retirement. The court can also convert ongoing maintenance into a lump sum to achieve a clean break.

Disability and long-term illness

Where a spouse is disabled or chronically ill, their needs, such as adapted housing, care and lost earning capacity, rank highly. The court is more likely to order long-term maintenance, a larger share of capital, or a pension share. Means-tested benefits and any personal injury award must be considered carefully.

How child maintenance is decided

Where parents cannot agree, child maintenance is calculated by the Child Maintenance Service, not the court, using the paying parent's gross income:

Children	On income to £800 a week	On income £800 to £3,000
One	12%	9%
Two	16%	12%
Three or more	19%	15%

The amount is reduced where the children stay overnight with the paying parent, and adjusted for other children in the paying parent's household.

The court can still order child maintenance by consent, for top-up payments where income exceeds the service's limit, and for disability costs.

Who pays for education?

The court can order a parent to pay school fees and extras, and to contribute to university or further education. These are usually tied to the children's ages or education, and are often agreed. Where children were privately educated during the marriage, continuity is an important factor.

Capitalised maintenance

Instead of paying monthly for years, the paying spouse can pay a larger lump sum or a bigger share of the house or pension, ending all further claims. This suits both sides where there is enough capital.

What helps, and why no two cases are alike

Why we do not give a typical outcome

Clients often ask what a court would award in a case like theirs. It is natural to look for a comparison, but outcomes in ancillary relief depend on a combination of factors that is different in every family:

- the length of the marriage and the ages of the parties;
- the children's ages and where they will live;
- each party's income, earning capacity and health;
- the type of assets: the home, pensions, a farm or business, inherited or pre-marital property;
- each party's housing needs and borrowing capacity;
- contributions made during the marriage, including caring for the family.

Two cases that look similar on paper can be decided quite differently. Relying on another family's result, or on an example, can lead to unrealistic expectations or a poor decision. We will advise you on the realistic range of outcomes once we understand your circumstances and have the financial information.

> Honest advice
>
> We will tell you what is realistic, even when it is not what you hoped to hear. Early, realistic advice usually saves money and stress.

What you can do to help

- Gather documents early: bank and savings statements, payslips, tax returns, pension statements, mortgage statements, and business or farm accounts.
- Prepare a realistic budget of your income and outgoings, and of what you and the children will need.
- Look at housing: property particulars in suitable areas, and a mortgage adviser's view of what you could borrow.
- Request pension valuations promptly, as they can take weeks to arrive.
- Keep records of any payments made since separation.
- Do not move or hide assets. The court can reverse transactions, and non-disclosure damages credibility and can lead to costs orders.
- Think before you post on social media, and keep correspondence with your spouse civil and to the point.

> Keeping costs proportionate
>
> Legal costs come out of the same pot of money that is being divided. Arguing at length over items of modest value rarely makes sense. We will help you focus on the issues that genuinely affect the outcome, and use negotiation, mediation and the FDR to reach a fair settlement where possible.

Pre-nuptial agreements, enforcement in the Republic, tax and traps to avoid

Pre-nuptial agreements in Northern Ireland

A pre-nuptial (or post-nuptial) agreement is not automatically binding here, because the court's power to decide what is fair cannot be excluded by contract. But following the Supreme Court's decision in Radmacher v Granatino, courts will give effect to an agreement that was freely entered into, with a full understanding of its implications, unless it would be unfair to hold the parties to it. To carry real weight, an agreement should have:

- full and frank disclosure of each party's assets and income;
- independent legal advice for each party, from separate solicitors;
- been signed well before the wedding: at least four weeks, and ideally much longer;
- no duress or undue pressure, such as a last-minute ultimatum;
- provision that still meets both parties' reasonable needs, particularly once children arrive;
- a review clause for children, illness or major changes.

They are especially valuable for protecting family farms and businesses, inherited wealth, and assets from a previous relationship.

Enforcement in the Republic of Ireland

Many families here have assets, incomes or a spouse on both sides of the border.

- Maintenance orders made in Northern Ireland can be recognised and enforced in the Republic under the 2007 Hague Convention on maintenance, which both the UK and the EU apply.
- Orders about property in the Republic usually operate personally: the court orders the spouse to transfer or sell. If they refuse, proceedings in the Irish courts may be needed.
- Where one spouse lives in the Republic, which country's courts deal with the divorce can change the financial outcome, as the Irish courts apply a different approach. Take advice before either party issues proceedings.

Tax on transfers

Since April 2023, separating spouses can transfer assets between them without capital gains tax until the end of the third tax year after they separate, and at any time under a court order or formal agreement. Transfers of the family home can also qualify for relief. Stamp duty land tax is not usually payable on transfers under a court order. Take tax advice on any property, shares or business assets.

Traps, and how to reach a good settlement

Traps

Moving or spending money once separation is in view. Accepting a pension share based on a CETV alone. Agreeing figures without proper valuations. Ignoring tax, debts and the cost of rehousing. Applying for decree absolute before the finances are settled. Signing an informal agreement that is never made into an order. Failing to dismiss future claims in a clean break. Social media posts that contradict your disclosure.

A good settlement

Early, complete disclosure from both sides. Realistic expectations, grounded in the law rather than grievance. A focus on the children and on housing. Mediation or structured negotiation, backed by well-judged written offers. Use of the FDR to test positions. And a carefully drafted consent order that deals with every asset, every pension and every future claim.

Our skilled investigation of the assets and their true value

A fair settlement depends on knowing exactly what there is, and what it is really worth. Much of our work in financial cases is investigation: testing the other side's disclosure, finding what is missing, and making sure every asset is valued properly.

What we do

- Tracing money: bank statement analysis, unexplained transfers and cash withdrawals.
- Businesses and farms: with forensic accountants, testing profits, loan accounts, dividends and cash takings.
- Property and companies: Land Registry, Registry of Deeds and Companies House searches on both sides of the border, and valuations.
- Pensions: CETVs and actuarial reports.
- Protection: questionnaires, third-party disclosure and urgent injunctions.
- Settlement and hearings: negotiation, mediation support and representation, with counsel where needed.
- Orders and agreements: consent orders, pension sharing annexes, enforcement and variation, and pre-nuptial agreements.

True value, not book value

A business's accounts may show modest profits while the owner's lifestyle tells another story. A farm's value lies in its land, entitlements and development potential, not its income. A final salary pension may be worth far more than its CETV. Identifying these differences is often what makes a settlement fair.

Talk to us early

The earlier we are involved, the more we can protect: preventing assets being moved, preserving evidence, and setting up the strongest negotiating position. A first meeting will give you a clear view of your likely entitlement and the best route to reach it.

Legal aid and the statutory charge: why every argument costs you

Legal aid is not free in money and property cases. It is usually a loan, not a gift. Under Article 17(7) of the Access to Justice (NI) Order 2003 and the Civil Legal Services (Statutory Charge) Regulations (NI) 2015, the legal costs paid on your behalf by the Legal Services Agency become a first charge on any money or property you recover or keep in the proceedings, including your share of the family home.

1 Costs build up
Every letter, report and hearing is paid by the Agency and added to your bill.

2 Settlement
Money due to you under the order is paid to your solicitor, not to you.

3 Report
Your solicitor must notify the Agency and pay the money over, or hold it, as the Agency directs.

4 Deduction
The Agency calculates its costs and deducts them from what you recovered.

5 Release
The balance is released to you only with the Agency's written authority.

Small arguments, large bills

Disputing a £2,000 car or the contents of a shed through extra correspondence and hearings can add thousands of pounds in costs, all repaid from your own settlement. If you recover £60,000 and the Agency has paid £18,000 in costs, you receive £42,000. The charge applies even if you were assessed as paying no contribution.

What else you need to know

Some payments, including certain maintenance, are exempt. The charge can be waived only in limited circumstances. If you keep property rather than money, the charge can attach to the property itself. Each spouse normally bears their own costs anyway, so the charge usually comes out of your share. We will explain how it applies to you before you accept any offer.

Con Lavery & Co Solicitors

34 Bridge Street, Banbridge, BT32 3JS · T +44 28 4062 9933
A member of The Law Group

Family law is rarely one size fits all, and it is not black and white. While the same legal principles apply, every case turns on its own facts and is decided on a case by case basis. This guide is reviewed and updated as the law changes. This briefing is general information on the law of Northern Ireland as at October 2026. Please take advice on your own circumstances. See also our guides on divorce and on children and family breakdown.

THE LAW GROUP
INCLUSIVE LEGAL SERVICES