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# SPOUSAL MAINTENANCE



UNDERSTANDING SPOUSAL  
MAINTENANCE  
A PRACTICAL, NO-  
NONSENSE GUIDE

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# 01 UNDERSTANDING SPOUSAL MAINTENANCE

Spousal maintenance is one of those topics that many separating couples find difficult to talk about. It goes to the heart of “How will we both manage financially once we’re in two homes instead of one?”

Even if you ultimately decide that no spousal maintenance is needed, it still needs to be considered as part of your overall financial settlement. There is little point carefully dividing assets only to discover that one of you cannot afford to stay housed or meet basic needs.

This guide explains what spousal maintenance is, when it may be relevant, how it is worked out, and how it can change over time. It is designed to give you a realistic, balanced picture — so that any agreement you reach is fair, sustainable, and grounded in how the law actually works

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## What is Spousal Maintenance?

Spousal maintenance is a regular payment from one spouse to the other after separation or divorce.

- It is aimed at meeting the adult’s needs, not the child’s.
- It is usually paid monthly.
- It can be for a fixed period or, more rarely, on a “joint lives” basis.

It is completely separate from child maintenance, which is calculated using the Child Maintenance Service (CMS). There is no government calculator for spousal maintenance.

Key point: Child maintenance has a formula. Spousal maintenance does not. It is discretionary and tailored to your specific circumstances.



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## 02 HOW IS SPOUSAL MAINTENANCE DIFFERENT FROM CHILD MAINTENANCE?

- Child maintenance
  - Statutory scheme (CMS)
  - Based on a formula using gross income and overnight stays
  - Focused on children's day-to-day needs
- Spousal maintenance
  - No fixed formula or calculator
  - Based on each spouse's needs, resources, and future earning capacity
  - Focused on avoiding undue hardship and achieving a fair outcome between adults

You cannot simply "plug in" your numbers and get an answer. Instead, the court (or your advisers) look carefully at budgets, assets, and what is realistically affordable.

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## 03 WHEN IS SPOUSAL MAINTENANCE RELEVANT?

Spousal maintenance tends to be considered where:

- There is a significant difference in income between you
- One of you has been out of the workplace to care for children or support the family
- There are young children, making full-time work difficult in the short term
- The marriage has been long, and finances have been tightly interwoven
- A simple division of capital won't meet one person's reasonable needs

It is less likely to be relevant where:

- Both of you have similar incomes and earning capacity
- The marriage was very short and there are no children
- There is enough capital to achieve a clean break without ongoing support

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## 04 HOW DO JUDGES DECIDE ON SPOUSAL MAINTENANCE?

There is no rigid calculation. Judges use their discretion, guided by section 25 of the Matrimonial Causes Act 1973 and the principle of fairness.

They will look at:

- Each person's income and earning capacity (now and in future)
- The standard of living during the marriage
- Your reasonable budgets going forwards
- Ages, health, and how long it may take to become self-supporting
- The needs of any children and who is caring for them
- The overall assets and debts, and whether a clean break is realistic

Because the same pot now has to support two households instead of one, some adjustment to lifestyle is almost always necessary.

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## 05 HOW ARE BUDGETS WORKED OUT?

Budgets are built from the ground up, using real figures wherever possible:

- Housing costs (rent, mortgage, service charges, insurance)
- Utilities and council tax
- Food, travel, clothing, phones, internet
- School-related costs and childcare
- Holidays, presents, hobbies, subscriptions
- Any agreed extras such as private healthcare or school fees

Annual or occasional costs (for example, holidays) are usually averaged over 12 months.

What is "reasonable" will vary from family to family; your previous lifestyle is relevant, but cannot always be fully replicated.

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## 06 HOW LONG DOES SPOUSAL MAINTENANCE LAST?

Spousal maintenance can be:

- Fixed term
  - For example, five years to allow retraining or until children reach a certain age
  - Sometimes with a bar on extension
- Extendable term
  - A fixed period with the option to review if needs are still not met
- Joint lives (now much less common)
  - Maintenance continues until the receiving spouse remarries, dies, or a court orders otherwise

Maintenance usually ends automatically if:

- The receiving spouse remarries or enters a civil partnership, or
- Either party dies

Living with a new partner (cohabitation) does not automatically end maintenance, but it can justify a review.

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## 07 VARIATION, CAPITALISATION & CLEAN BREAKS

Spousal maintenance is rarely static. As life moves on, finances change — and the law allows maintenance to change with it.

There are three key concepts to understand:

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# 07 VARIATION, CAPITALISATION & CLEAN BREAKS

Variation:

Either spouse can apply to vary (change) the amount or duration of maintenance if circumstances shift significantly.

Common triggers include:

- A job loss or major reduction in income
- A promotion or substantial increase in earnings
- A change in health affecting ability to work
- Children becoming older and childcare needs reducing
- The recipient returning to work or increasing hours
- The payer taking on new financial responsibilities

Variation can result in:

- An increase in maintenance
- A reduction
- A temporary suspension (e.g., during unemployment)
- A full termination, where needs can now be met without support

If you cannot agree between yourselves, mediation or a judge-led opinion can help — and the court can ultimately decide.

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# 07 VARIATION, CAPITALISATION & CLEAN BREAKS

## Capitalisation

Capitalisation converts ongoing monthly maintenance into a one-off lump sum, allowing both spouses to achieve a clean break.

You might consider capitalisation if:

- The payer is receiving a windfall (bonus, inheritance, business sale)
- Both want financial independence without ongoing ties
- Monthly payments create stress or unpredictability
- One spouse is planning to remarry or move abroad
- You would prefer certainty rather than future reviews

Capitalisation is intended to reflect:

- The value of the remaining maintenance over time
- Likely changes in income and needs
- The benefit of each spouse having financial control sooner

A lump sum can bring clarity — but careful modelling is essential before agreeing to it.

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## Clean Breaks

A clean break means each spouse is financially independent of the other.

No further claims. No monthly payments. No future variation.

You can only achieve a clean break if:

- There is no spousal maintenance at all, or
- Spousal maintenance has been fully capitalised into a lump sum

You cannot have a clean break if a nominal or substantive spousal maintenance order remains in place because future claims still exist.

A clean break is often the long-term goal, but it must be realistic. A clean break that leaves one spouse unable to meet essential needs would not be considered fair.



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## 08 NOMINAL MAINTENANCE

Sometimes the court makes a nominal maintenance order – for example, £1 per year (not actually paid) – to keep a door open in case of future need. This is often used where:

- The primary carer can manage for now
- There is concern their situation may worsen later

A true clean break is only achieved when no future income claims can be made. You cannot have a full clean break if spousal maintenance (even nominal) remains in place.

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## 09 MYTH-BUSTING: SPOUSAL MAINTENANCE

✗ "Spousal maintenance is just extra child maintenance."

✓ Reality: It is a separate payment aimed at meeting the adult's needs, after child maintenance has been taken into account.

✗ "Because they were at fault, I'll automatically get more money."

✓ Reality: In almost all cases, blame and behaviour play no part in financial awards.

✗ "Spousal maintenance lasts forever."

✓ Reality: Most orders are time-limited and aimed at helping someone adjust, retrain, or rebuild financial independence.

✗ "Once agreed, it can never change."

✓ Reality: Orders can be increased, reduced, capitalised, or ended if circumstances change significantly.

✗ "If they get a job or move in with someone new, maintenance stops overnight."

✓ Reality: These changes may justify a review, but they are not automatic cut-offs. The court will still look at needs and fairness.

✗ "We can have a clean break and ongoing maintenance."

✓ Reality: A genuine clean break means no ongoing spousal maintenance. If there is maintenance, there is always a possibility of variation.

✗ "Only wives can receive spousal maintenance."

✓ Reality: Maintenance is gender-neutral. Either spouse can be the payer or the recipient, depending on needs and resources.

✗ "If my ex hides their income, nothing can be done."

✓ Reality: Full financial disclosure is required. Hiding assets or income is serious and can backfire badly in court.

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## 10 COHABITATION, REMARRIAGE & NEW PARTNERS

Moving in with a new partner does not automatically end spousal maintenance.

However, it can change the financial landscape:

- The new partner may contribute to housing or household bills
- The recipient's needs may reduce
- The paying spouse may ask for a review or variation

Remarriage or entering a civil partnership, on the other hand, brings spousal maintenance to an automatic end (unless a lump sum or capitalisation was agreed).

Cohabitation and remarriage are treated very differently by the courts, so if you are thinking of moving in with someone new, you should get advice early.

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## 11 WHAT HAPPENS IF CIRCUMSTANCES CHANGE

Life changes, and maintenance arrangements often need to change with it.

Common reasons for review include:

- A job loss or significant drop in income
- A promotion or sharp increase in earnings
- A new baby or new dependants
- A return to full-time work after caring for children
- A serious illness or disability
- Children becoming older or more independent
- The recipient becoming financially self-sufficient

Either spouse can request a variation.

If you cannot agree between yourselves, mediation or an independent evaluation can help — and ultimately, the court can decide.

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## 12 ENFORCEMENT IF PAYMENTS STOP

If a paying spouse stops paying spousal maintenance without agreement or a court order:

1. Talk first
2. There may be a temporary issue — job loss, illness, late payment.
3. Try mediation or solicitor negotiation
4. A revised schedule or temporary reduction might be agreed.
5. Enforce the order
6. If there is a formal court order, you can apply to enforce it.

The court can:

- Order arrears to be paid
- Make an attachment of earnings order
- Order payment from savings or assets
- Add costs or interest

Stopping payments on your own initiative is risky and can lead to unnecessary cost and sanctions.

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## 13 WHEN SHOULD I GET LEGAL ADVICE?

Spousal maintenance is highly fact-specific. You should seek advice if:

- You have been out of work or part-time for many years
- You are unsure whether to aim for a clean break or ongoing maintenance
- Your ex has complex income (bonuses, shares, business interests)
- You suspect assets or income are being hidden
- You are thinking about remarrying or cohabiting and are unsure how this affects maintenance

Services such as independent barrister reviews or judge-led opinions (for example, via [whatwouldajudgesay.com](https://www.whatwouldajudgesay.com)) can provide a clear, early indication of what a court is likely to do — giving you a powerful sense-check before you commit to an agreement.

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# 14 PRACTICAL NEXT STEPS

To move forward smoothly:

- Build a realistic budget using actual figures
- Gather evidence of income, spending and needs
- Consider whether a fixed term, extendable term, or clean break is right for you
- Explore mediation, solicitor-led negotiation, or an independent evaluation
- Use early neutral opinions — such as those offered by [whatwouldajudgesay.com](https://www.whatwouldajudgesay.com) — to get a realistic sense-check before you agree anything
- Get legal advice before you commit to a long-term financial arrangement

A calm, informed approach will help you reach a settlement that is fair, affordable, and sustainable.

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