

# Divorce among families with dependent-aged children: the interaction between child arrangements and financial settlements

## Report

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## The research

This report explores a subset of the Fair Shares dataset to build on findings about divorcing parents. The purpose of the report is to look within divorce cases involving dependent children to understand better the interaction between decisions about where children live after divorce and the financial arrangements made between their parents. The study was led by Professor Emma Hitchings at the University of Bristol.

More information about the Fair Shares project can be found at:

<https://www.bristol.ac.uk/law/fair-shares-project/>

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## Summary of key findings

### **The prioritisation of children when reaching a financial settlement on divorce**

- Putting their children's needs first was a priority for many divorcing parents – regardless of their child arrangement - both when considering what they wanted from a financial arrangement and when reaching any financial settlement.

### **Where one parent had main care of the children, more parents than other divorcees had sought legal support in relation to their finances, and there was a greater likelihood of unequal asset division**

- More mothers than fathers had main care of the children (referred to in the paper as being the resident parent).
- Resident parents were more likely to receive a greater share of the assets, with two thirds of these parents receiving at least 50 per cent of the value of the total assets.
- Resident parents were more likely than non-resident parents and parents with equal time care to engage a lawyer at some point during their divorce process, often related to perceived difficulties in dealing with their ex-spouse.

### **Mothers and fathers sometimes had different perceptions about their child arrangements**

- There were differences in the perceptions of mothers and fathers about what constituted roughly equal time care, with fathers far more likely than mothers to say that they had an equal time care arrangement whereby their children stayed with them half the time.

### **In equal time care cases, there was often a more informal process to reaching a financial arrangement and a tendency towards more equal financial outcomes. However, caution is noted with these findings given the wealthier and more amicable context in which these arrangements were made**

- Among those with equal time care, more parents had divided their assets more closely to 50:50.
- A high proportion of equal time care parents appeared to have a more amicable relationship, having negotiated the financial arrangement themselves.
- Parents with equal time care were wealthier than other parents. During their marriages, their average household income was higher, they had higher levels of assets to divide on divorce, and mothers were more likely to be working full-time at the point of separation.

### **Child maintenance arrangements were more likely when non-resident parents had more contact with their children**

- Where non-resident parents had contact with their child, two thirds of families had a child maintenance arrangement, but in cases where there was no contact, this figure dropped to only three in ten.



# 1. Introduction

## Context

This paper builds on findings about divorcing parents within the *Fair Shares: sorting out money and property on divorce* report.<sup>1</sup> A key focus of the original report was to document the financial arrangements made by parents with dependent-aged children, and compare them to arrangements in other divorce cases. Here, our purpose is to look *within* divorce cases involving dependent children to understand better the interaction between decisions about where children live after divorce and the financial arrangements made between their parents.

The arrangements that parents make for post-separation care of their children almost always have financial and property implications, in particular, what happens to the former matrimonial home and the ongoing support needs of either party and their children. Decisions around these issues can become especially complex when residence is more or less equally shared, although the extent of shared care post-separation and following divorce is difficult to establish.<sup>2</sup> There continues to be great interest in shared care - in the sense of roughly equal time - in many Western countries, especially in relation to child support, and in relation to child and parent wellbeing. In England and Wales, this has become particularly pertinent since the introduction of the presumption of parental involvement through an amendment to the Children Act 1989, section 1(2A). This requires the court to consider the involvement of both parents in the lives of their children following parental separation in contested private law disputes. However, financial arrangements are rarely discussed in the shared parenting debates, particularly in relation to how finances and property on divorce are divided and the approaches and attitudes of these parents to financial and property division.<sup>3</sup>

Beyond issues of shared parenting, there is a general lack of evidence about the ways in which child arrangements and financial settlements are made, and the extent to which they are jointly or separately considered.<sup>4</sup> We have evidence that many parents put their children's needs before their own (or at least alongside them) when coming to decisions

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<sup>1</sup> This is the third of four supplementary papers produced since the main report. For the original report, see E Hitchings, C Bryson, G Douglas, S Purdon and J Birchall *Fair Shares? Sorting out money and property on divorce* (University of Bristol, 2023). For the first two supplementary reports, see E Hitchings and C Bryson, *Dividing property and finances on divorce: what happens in cases involving domestic abuse?* (University of Bristol, 2024) and E Hitchings and C Bryson, *Spousal maintenance across regions* (University of Bristol, 2024)

<sup>2</sup> T Haux, S McKay and R Cain, 'Shared Care After Separation in the United Kingdom: Limited Data Limited Practice?' (2017) 55(4) *Family Court Review* 572-585.

<sup>3</sup> There has been some research from other jurisdictions on this issue. For a qualitative longitudinal Australian study, see B Fehlberg, C Millward, M Campo and R Carson, 'Post-separation parenting and financial arrangements: exploring changes over time', (2013) 27(3) *International Journal of Law, Policy and the Family*, 359-380. See also, R Kaspiw, M Gray, R Weston, L Moloney, K Hand and L Qu, *Evaluation of the 2006 Family Law Reforms* (Australian Institute of Family Studies, 2009). Available at: [Evaluation of the 2006 family law reforms \(bsl.org.au\)](https://www.bsl.org.au/publications/evaluation-of-the-2006-family-law-reforms) and B Smyth and B Rodgers, 'Strategic bargaining over child support and parenting time: A critical review of the literature' (2011) 25 *Australian Journal of Family Law* 210.

<sup>4</sup> From a legal perspective, child arrangements and finance issues on divorce are considered separately. See Children Act 1989, s 8 and Matrimonial Causes Act 1973, s 25.

about the division of their finances,<sup>5</sup> and that decisions may or may not take into account what is set out in legislation. For example, the Child Maintenance Service (CMS) to some extent takes into account the amount of time that children spend with each parent when deciding on ongoing financial support in the form of child maintenance, but it does not take into consideration the division of capital assets on divorce when specifying levels of child maintenance that would be made. However, we know from the *Fair Shares* report and other studies that the picture in practice is complex. Parents can make decisions around child maintenance (whether to have an arrangement, how much, and whether to comply) outside of CMS stipulations or guidance.<sup>6</sup> Some parents will look at child maintenance and the division of capital assets in the round, perhaps offsetting getting child maintenance against a settlement on the matrimonial home.<sup>7</sup>

All this makes it important to understand more about these decisions *within* cases involving dependent children, who is making them and why they are doing so, especially given the strong policy priority of private ordering of family legal disputes. Without robust evidence regarding how negotiations and arrangements are arrived at and managed outside of the courts and CMS, with or without legal advice, there is no firm evidence base from which policy makers can discuss and assess what changes might be required.

## Research questions

The *Fair Shares* study gives an opportunity for us to look at some of these issues in detail. The study provides the first representative findings on the finances and property arrangements of divorcing couples in England and Wales, using a bespoke online survey and in-depth interviews with divorcees whose divorce had been granted within the previous five years.<sup>8</sup>

This paper draws on the responses of 1,189 survey participants<sup>9</sup> and 26 interviewees<sup>10</sup> who had dependent-aged children with their ex-spouse at the time they divorced.<sup>11</sup> Drawing on what participants and interviewees told us about the point at which they divorced, we divide parents whose dependent-aged children were a) living only or mainly with them, b) living only or mainly with their ex-spouse, and c) spending roughly equal amounts of time with both parents<sup>12</sup> (with the detail of these definitions laid out in Section 3). For brevity, we refer to these parents as resident parents, non-resident parents and parents with equal time care,

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<sup>5</sup> E Hitchings et al, *Fair Shares* report (n 1 above), p 349.

<sup>6</sup> See Chapter 9 of the main *Fair Shares* report (n 1 above) for a full account of this.

<sup>7</sup> In the *Fair Shares* study, 15 per cent of parents who did not have a child maintenance arrangement said that this was because they had a clean break settlement on divorce (E Hitchings et al, *Fair Shares* report (n 1 above), p 345).

<sup>8</sup> For a full account of the methods used in the study, see E Hitchings et al, *Fair Shares* report (n 1 above), ch 2.

<sup>9</sup> This is the unweighted sample size whereas percentages outlined in the report are based on weighted data (see Appendix A of the main report).

<sup>10</sup> Thirteen resident parents; seven non-resident parents; and six who had an equal time care arrangement.

<sup>11</sup> The survey and interview samples are made up of individual divorcees and, as such, include one, but not both, of the parents in the case.

<sup>12</sup> Note, this is based on the living arrangements for the children.

while recognising that, for many, the living situations were more nuanced than these terms suggest.

Building on the findings in the original *Fair Shares* report, this paper addresses the following research questions:

- **Section 2:** How do parents compare to other divorcees in relation to their financial situations at the point of divorce?
- **Section 3:** Looking at parents' circumstances during the marriage, which parents become the resident or non-resident parent, or have equal time care?
- **Section 4:** To what extent do parents take child arrangements into consideration when thinking about what they want from a financial settlement, and how (far) are they taken into account during any negotiations?
- **Section 5:** How (far) have parents with different child arrangements taken different pathways to dividing their finances and property and making decisions around ongoing child maintenance, and why?
- **Section 6:** How are assets divided between divorcing parents who become the resident or non-resident parent or have equal time care of their children?
- **Section 7:** Who receives ongoing financial support in the form of child maintenance, and how does this relate to wider financial arrangements?

## Note on the presentation and interpretation of the findings

The survey findings are presented in Figures and Tables, with further detail and explanation in the text. Where we make comparisons between different groups of parents with dependent children (for brevity referred to in the text as parents), differences in the findings have been tested for statistical significance, with the p-value showing the probability that a difference we observe is simply down to chance, rather than being a real underlying difference between the two groups. A p-value of less than five per cent (p-value <0.05) is conventionally taken to indicate a statistically significant difference. The term 'statistically significant' is often abbreviated to 'significant' in the text. The majority of the statistical tests for the comparisons across groups are based on chi-squared statistics, taking into account the weighting of the data.

Due to rounding, percentages in the Figures and Tables do not always total 100 per cent. Where participants said that they did not know or would prefer not to answer the question, these participants are included in the base. However, for ease of reading, they are not included in the Figures and Tables unless they represent a notable proportion of the total (e.g. where high levels of 'don't knows' is a finding in itself, highlighting a lack of knowledge about a particular issue). The unweighted sample sizes are cited at the end of each Figure or Table. All analysis was conducted within SPSS v 28.0.1.1.

The qualitative sample is presented with a short identifier for each quote (i.e. husband – shared care). This categorisation is based on how the parent reported their parenting arrangement. No further numerical identifier is provided (i.e. wife 1). This is due to the size of the parent interview sample as well as the nature of material being discussed.

## 2. How do parents compare to other divorcees in relation to their financial situations at the point of divorce?

### Key findings

**Half (54 per cent) of all divorces involved dependent children.**

**On average, the marriages of parents with dependent children lasted longer than those of divorcees without children and less time than those with older, non-dependent children.**

**During the marriage, mothers with dependent children were less likely to be working full-time, and earned less on average, than women with no children. However, they were more likely to be working full-time, and earned more on average, than women with older non-dependent children.**

**Overall, during the marriage, parents with dependent children had, on average, similar household incomes to those with older non-dependent children, but lower incomes than divorcees without children.**

**Whilst almost half (46 per cent) of parents with dependent children had assets from the marriage worth under £100,000, the levels of their assets were not dissimilar to those of divorcees with no children. However, they were lower than those with older non-dependent children.**

- This was largely related to homeownership: those with older, non-dependent children were more likely to be outright owners and had higher levels of equity.
- Parents with dependent children were more likely than those with older, non-dependent children to have a pension to divide, but these were of lower value.

**Among parents with dependent children, mothers were more likely to be in a precarious financial situation than fathers coming out of the marriage.**

- Mothers were less likely than fathers to be working full-time, and had lower salaries.
- Mothers' pension pots tended to be of lower value than fathers' pension pots.

## Introduction

This section provides a brief overview of the circumstances in which parents with dependent children entered the divorce process.<sup>13</sup> How many children, of what ages, did they have with their ex-spouse? How long they were married, what were their economic circumstances and what level of assets did they have to divide? We compare the situations of parents with dependent children and those of other divorcees, to understand the similarities or differences in their financial circumstances.

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<sup>13</sup> Much of this data is also included in the main *Fair Shares* report. Unless otherwise stated, the term 'parents' refers to parents with dependent children.



## Children and length of marriage

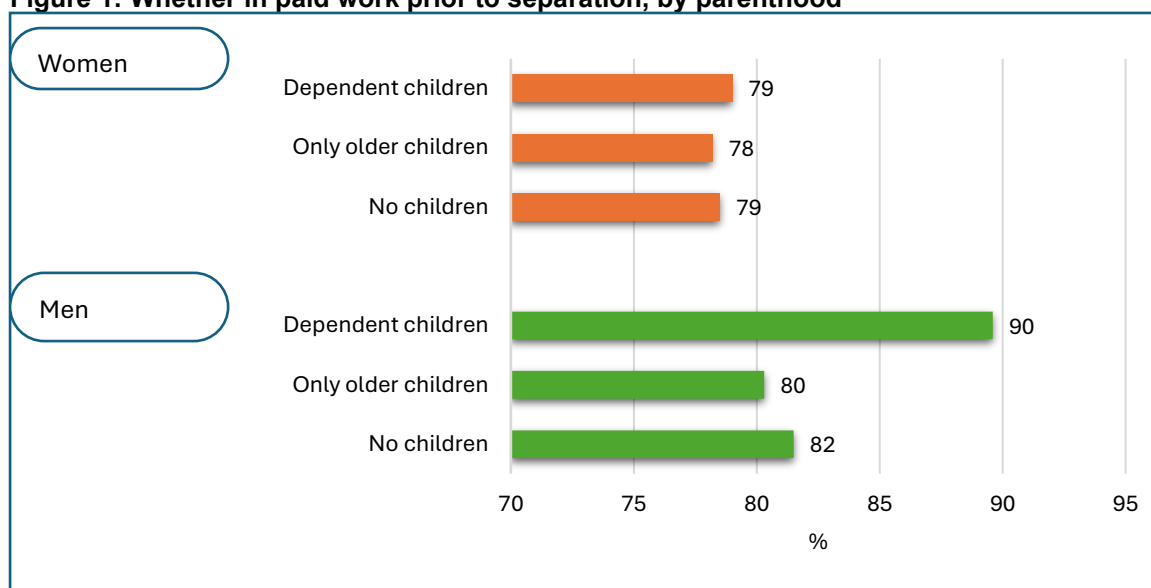
Half (54 per cent) of all divorces involved parents with dependent children (aged under 16, or 16 to 19 in full-time education) (to whom we refer to as children in this paper, for the sake of brevity). Most parents had one (43 per cent) or two (35 per cent) children, with only one in five (21 per cent) divorces involving three or more dependent children. A large number of parents were divorcing when their children were young. Three in ten (29 per cent) divorces involved a child under five, with a further three in ten (30 per cent) occurring when the youngest child was aged between five and nine. Only one in six (16 per cent) parents had a youngest child aged 15 or over at the time of their divorce.<sup>14</sup>

There was wide variation in the length of the marriages of parents with dependent children, but the largest proportion had been married for between 11 and 20 years (38 per cent compared to 25 per cent married for five years or fewer, 27 per cent for six to 10 years, and 10 per cent for more than 20 years). As expected, on average parents with dependent children had shorter marriages than those with older non-dependent children (where 42 per cent of marriages had lasted more than 20 years). Marriages not involving children tended to be more shorter (41 per cent lasted for five years or fewer).<sup>15</sup>

## Employment, earnings and household income

The majority of all parents with dependent children – eight in ten (79 per cent) mothers and nine in ten (90 per cent) fathers were in paid work at the point of separation. The proportion of women in work did not differ significantly depending on whether or not they had children, but the proportion of working fathers was somewhat higher than among fathers with older non-dependent children (80 per cent) and men without children (82 per cent) (Figure 1).

**Figure 1: Whether in paid work prior to separation, by parenthood**



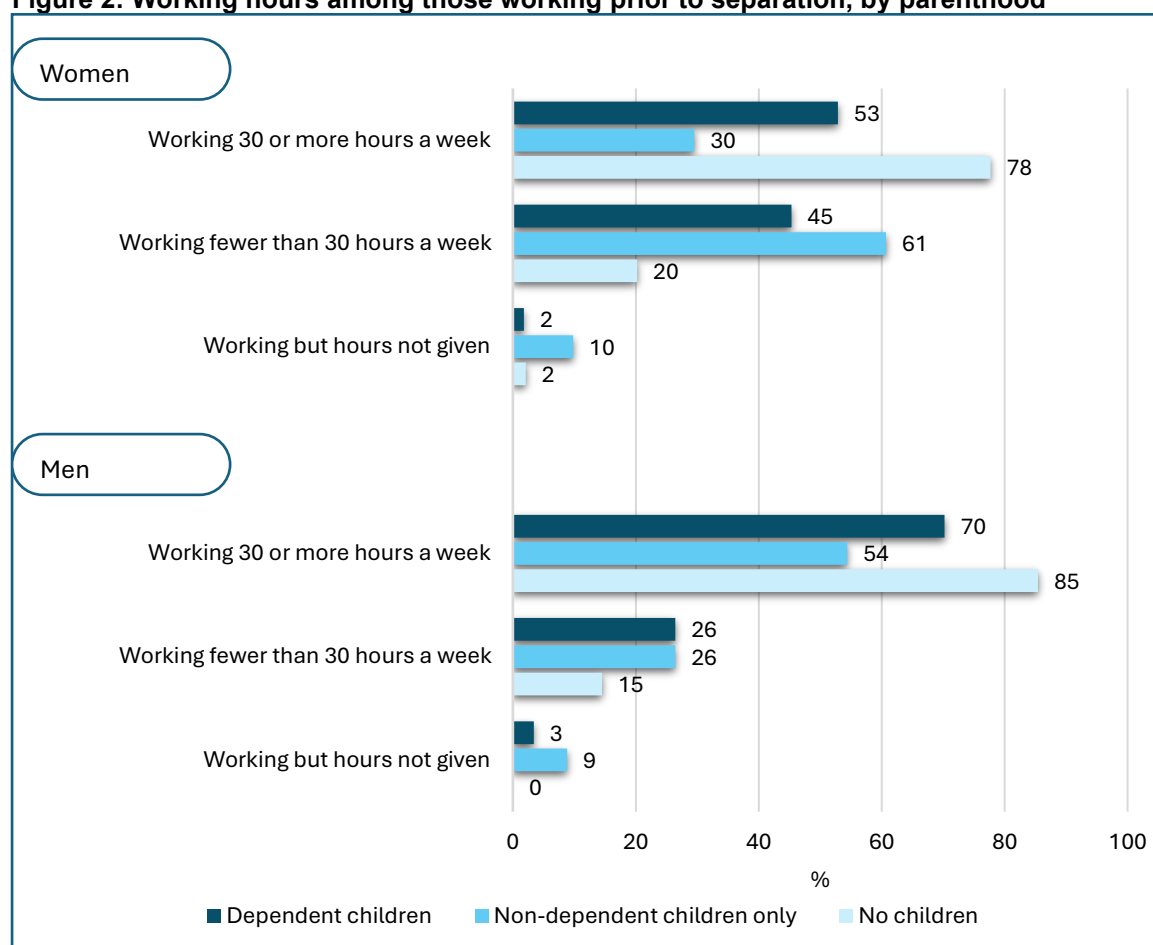
<sup>14</sup> See Figure 3.2 of the main *Fair Shares* report for a full breakdown: E Hitchings et al, *Fair Shares*, (n 1 above).

<sup>15</sup> P-value <0.001.

Bases: women with dependent children (685), older non-dependent children (152), no children (532); men with dependent children (504), older non-dependent children (137), no children (384)

However, likely reflecting their caring responsibilities, only half (53 per cent) of the working mothers were working full-time<sup>16</sup> at the point of separation. While the proportion was higher among fathers (70 per cent), still a fair proportion of fathers were working part-time. Among those in work, parents were less likely to be working full-time than divorcees who did not have children (78 per cent of women and 85 per cent of men) and more likely than parents with older non-dependent children (30 per cent of mothers and 54 per cent of fathers)<sup>17</sup> (Figure 2).

**Figure 2: Working hours among those working prior to separation, by parenthood**



Bases: working women with dependent children (575), older non-dependent children (119), no children (429); working men with dependent children (462), older non-dependent children (110), no children (323)

Women's working patterns translated into their earnings. Working mothers earned more on average than those with only non-dependent children and less on average than women with no children (e.g. 32 per cent of mothers earned under £1,000 per month compared to 39 per cent of women with non-dependent children and 20 per cent of those with no children).<sup>18</sup>

<sup>16</sup> Thirty hours or more.

<sup>17</sup> P-values of <0.001.

<sup>18</sup> P-value <0.001.

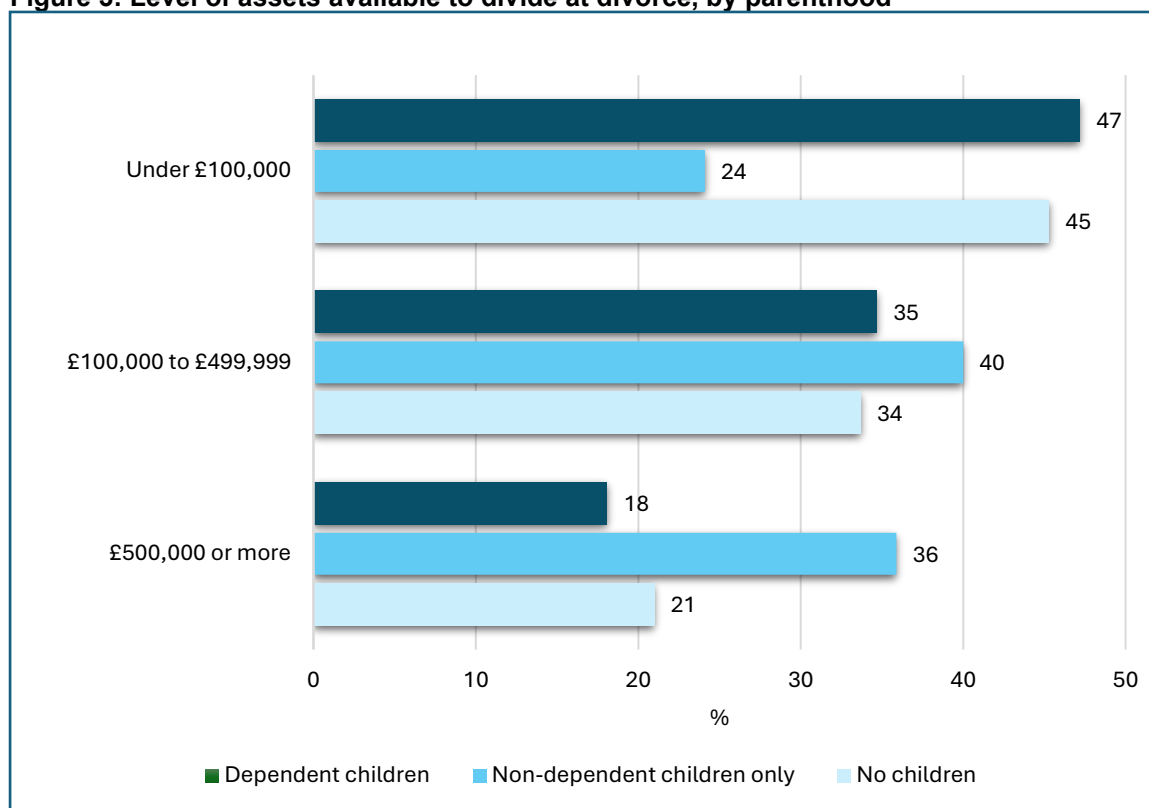
However, among men, there were no significant differences in the earnings of fathers, men without children and those with older non-dependent children.

Overall, parents had similar household income levels to those with older, non-dependent children, but somewhat less than those without children.<sup>19</sup> It is important to remember these disparities in working patterns, earnings and money management during the marriage, when we look later at the financial arrangements that parents make at the point of divorce.

## Assets

In terms of the assets that parents with dependent children had to divide on divorce – including equity in the matrimonial home, pension pots, and any other assets or savings, minus any debts - their overall value was less than for those with older non-dependent children, but did not differ substantially from divorcees without children.<sup>20</sup> Almost half (47 per cent) of parents had assets worth under £100,000, a third (35 per cent) had assets worth between £100,000 and £499,999 and 18 per cent had assets worth £500,000 or more.

**Figure 3: Level of assets available to divide at divorce, by parenthood**



Bases: divorcees with dependent children (1,128), older non-dependent children (276), no children (862) with information about assets to divide

The difference between parents and divorcees with older non-dependent children is largely accounted for by equity in the matrimonial home. Although seven in ten (69 per cent) parents

<sup>19</sup> P-value 0.042.

<sup>20</sup> P-value 0.002 compared to those with non-dependent children. This likely reflects the fact that those with non-dependent children are older with longer marriages.

were homeowners,<sup>21</sup> they were less likely than other divorcees to have owned their homes outright (10 per cent compared to 21 per cent of divorcees with older, non-dependent children). The majority of parent homeowners had a mortgage (49 per cent) or were in a shared ownership arrangement (nine per cent). This is reflected in the relatively low levels of equity available in the matrimonial home. A third (35 per cent) of parent homeowners<sup>22</sup> had equity of under £100,000 after any mortgage was paid off. Only one in ten (11 per cent) had equity of £500,000 or more. This was significantly less than the equity available to those with older non-dependent children, but similar to the amounts for divorcees with no children.<sup>23</sup>

Parents were equally likely as divorcees without children to report that at least one parent had a pension at the point of divorce (74 per cent and 73 per cent), either one already being drawn or one yet to be drawn. The proportion was much lower among parents with older non-dependent children (52 per cent), but this may in part be due to a lack of knowledge on the part of the participant, as a quarter (26 per cent) said that they did not know if they or their ex-spouse had a pension. Among those with a pension yet to be drawn,<sup>24</sup> the value of parents' pension pots were, on average, lower than those with older children (e.g. 40 per cent had a low value pension pot compared to 18 per cent)<sup>25</sup> but this was not significantly different to divorcees with no children.

Among parents, equal proportions of mothers and fathers had a pension that they were yet to draw (52 per cent of mothers and 53 per cent of fathers). However, among those with a pension pot, fathers were more likely than mothers to have a higher value pension. For instance, a third (33 per cent) of fathers had a pension pot of less than £50,000 compared to half (47 per cent) of mothers. At other end of the value scale, 13 per cent of fathers and two per cent of mothers had a pension pot of £300,000 or more.<sup>26</sup>

Most parents did not have that much in the way of savings or other assets. Only a third (33 per cent) had other assets or savings of £5,000 or more. However, four in ten (43 per cent) had debts (e.g. credit card debts or loans) worth £5,000 or more. While divorcees without children had similar levels of savings and fewer debts (30 per cent had debts of £5,000 or more),<sup>27</sup> those with older, non-dependent children had more in the way of savings and other assets (e.g. 48 per cent had savings of £5,000 or more) and in terms of debts (55 per cent had debts of £5,000 or more).<sup>28</sup>

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<sup>21</sup> While this is similar to those without children (67 per cent), it is significantly less than those with older non-dependent children (73 per cent, p-value <0.001).

<sup>22</sup> These calculations exclude those in shared ownership situations, because we do not know what percentage of the home was shared.

<sup>23</sup> P-value <0.001.

<sup>24</sup> That is, a pension pot which would be taken into consideration as an asset in any divorce settlement.

<sup>25</sup> P-value 0.002.

<sup>26</sup> P-value <0.001. Note that similar differences by gender are seen among other divorcees.

<sup>27</sup> Difference in debt level p-value <0.001.

<sup>28</sup> P-value 0.002 in relation to savings and 0.012 in relation to debt.

### 3 Which parents become resident or non-resident parents, or have equal time care?

#### Key findings

**The majority of dependent-aged children were living with their mothers at the point of divorce. However, there were differences in the perceptions of parents about what constituted 'equal time care', and different reports about levels of contact.**

- Equal time care arrangements were more likely where there were two children and where the youngest child was aged five to nine, with fathers more likely than mothers (20 per cent compared to eight per cent) to say that their children lived with them half the time.
- At the point of divorce, half (48 per cent) of resident parents and six in ten (61 per cent) non-resident parents reported that the non-resident parent saw their child(ren) at least once a week, although many children had much less frequent contact with their non-resident parent.
- There is some evidence that younger children were having more contact with their non-resident parent than older children.

**Parents with equal time care arrangements came from marriages with higher household incomes, and with a greater level of assets, compared to families where one parent became the main carer.**

- Mothers who ended up with an equal time care arrangement were more likely to have been working full-time at the point of separation.
- Parents who ended up with equal time care arrangements had on average higher levels of income and assets to divide on divorce than other parents.
- They were more likely to be homeowners and to have had higher value pensions.

**Resident parents' working patterns and salaries meant that they were often less financially secure going into divorce than non-resident parents and those with equal time care.**

- Working parents who became resident parents were more likely to have been working part-time and have lower earnings during the marriage than those who became non-resident parents or parents with equal time care.
- Fathers who became resident parents appeared to have a greater caring role during the marriage, with only a third (32 per cent) of these fathers working full-time at the point of separation.

## Introduction

Having established in the previous section how parents' circumstances during their marriages compare to those of other divorcees, the purpose of this section is to describe, again based on their circumstances prior to divorce, which parents became resident or non-resident parents after separation or divorce, and who ended up with an equal time care arrangement.<sup>29</sup> The (sometimes differing) situations of these three groups of parents are

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<sup>29</sup> Ideally we would know more about the motivations behind different child arrangements. However, given that the primary focus of the *Fair Shares* study was financial arrangements, survey participants and interviewees were not asked about their child arrangements in any detail. In particular, the survey does not allow us to identify shared care arrangements in the broader sense, addressing issues beyond where the children were living.

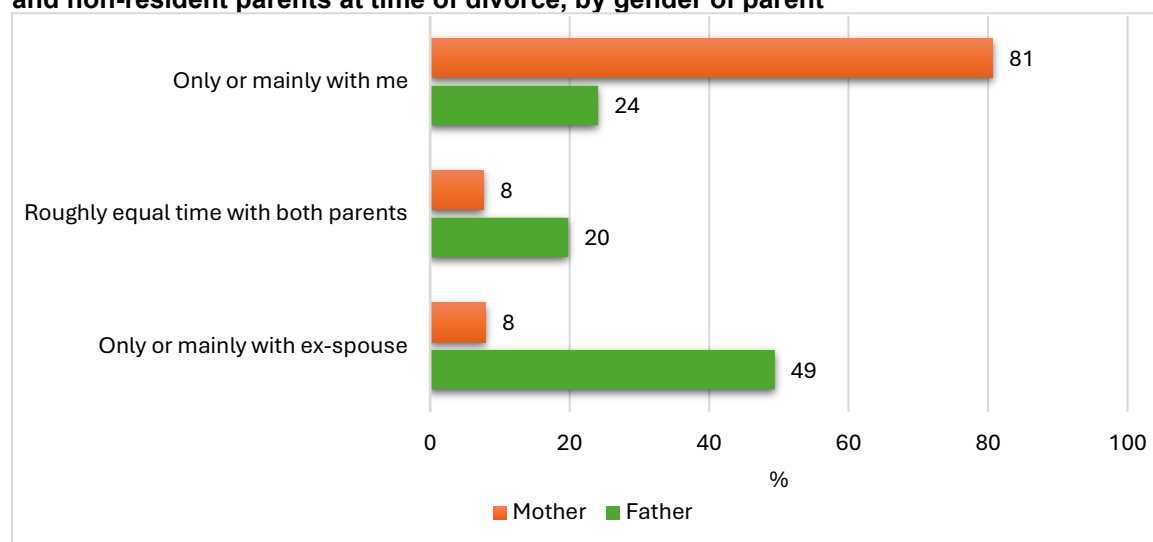


important context when looking in later sections at the financial arrangements they made, and the processes by which they reached them.

## Post-separation living arrangements for children

As we would expect from the wider evidence,<sup>30</sup> most dependent-aged children were living only or mainly with their mothers at the point of divorce. Eight in ten (81 per cent) mothers reported that they were the resident parent compared to a quarter (24 per cent)<sup>31</sup> of fathers. However, there were differences in the perceptions of mothers and fathers about what constituted their children living ‘only or mainly’ with one parent and what constituted ‘roughly equal time’ with each parent. Fathers were more than twice as likely as mothers (20 per cent compared to eight per cent) to say that their children stayed with them roughly half the time (Figure 4).<sup>32</sup>

**Figure 4: Reports of where the child(ren) were living, and levels of contact between children and non-resident parents at time of divorce, by gender of parent**



Bases: mothers (685); fathers (504)

In comparison to more ‘traditional’ arrangements, these equal time care arrangements were more likely where there were two children, and where the youngest child was aged five to nine. For example, a third (33 per cent) of equal time care arrangements involved one child, half (53 per cent) involved two children and 14 per cent had three or more. In contrast, in circumstances where one parent had main care of the child, four in ten (44 per cent) had one child, a third (32 per cent) had two and one in five (22 per cent) had three or more.<sup>33</sup> A

<sup>30</sup> See for instance ONS, Families and households 2022 (2023) Table 1: around 88% of lone parent families with dependent children headed by lone mother. Note that this includes widowed, never-married and separated as well as divorced parents.

<sup>31</sup> The percentage of resident fathers is higher than we might expect, and is discussed further below.

<sup>32</sup> Moreover, only half (49 per cent) of fathers identify as non-resident parents. We also know about child arrangements at the point of the survey, but this paper focuses on what happened at the point of divorce. Children’s living arrangements at the time of the survey were similar to those at the point of divorce but, in line with other evidence, the frequency of contact with non-resident parents had somewhat reduced.

<sup>33</sup> According to the reports of resident parents. P-value comparing equal time care and resident parents <0.001.

quarter (24 per cent) of equal time care arrangements involved children under five (compared to 34 per cent reported by resident parents), and four in ten (41 per cent) involved a youngest child aged between five to nine (compared to 26 per cent of resident parents).<sup>34</sup>

The differences in the perceptions of mothers and fathers as to what constituted equal time care is reflected in the qualitative data, with five of the 12 fathers reporting that they had an equal time care arrangement, compared with only one of the 14 mothers. The discrepancy in views of what constituted equal time care is shown in the following example, which suggests that the father had a substantial role (but in reality was a non-resident parent), rather than necessarily what we might view as equal time care, although this was how he reported his parenting arrangement in the survey:

[I]t just wasn't conceivable that she could work part-time and run round after four kids, even I'm there every other weekend or even you know, I help out now as much as I can but it just wasn't a conceivable thing, so I didn't want that to be an issue, but again, you know, I am fortunate to be able to do that. (Husband – equal time care)

These discrepancies in perception or report are further apparent when we look at the frequency of contact between children and their non-resident parents in cases without equal time care. Figure 5 shows the reports of resident and non-resident parents of how often the non-resident parent saw their child(ren) during term-time. On average, non-resident parents reported more frequent contact than the resident parents. This difference in reporting may perhaps be due to sensitivities over how children's care is shared, with non-resident parents being more likely to augment the proportion of time they have with their children and resident parents emphasising their role as 'primary' carer.<sup>35</sup> However, it also likely reflects a greater propensity for more engaged non-resident parents to respond to the survey.<sup>36</sup>

At the point of divorce, half (48 per cent) of resident parents<sup>37</sup> and six in ten (61 per cent) non-resident parents reported that the non-resident parent saw their child(ren) at least once a week. However, many children had much less frequent contact with their non-resident parent than that and, according to both parents (12 per cent of resident parents and eight per cent of non-resident parents), a substantial minority of non-resident parents never saw their child(ren) at the point of divorce.

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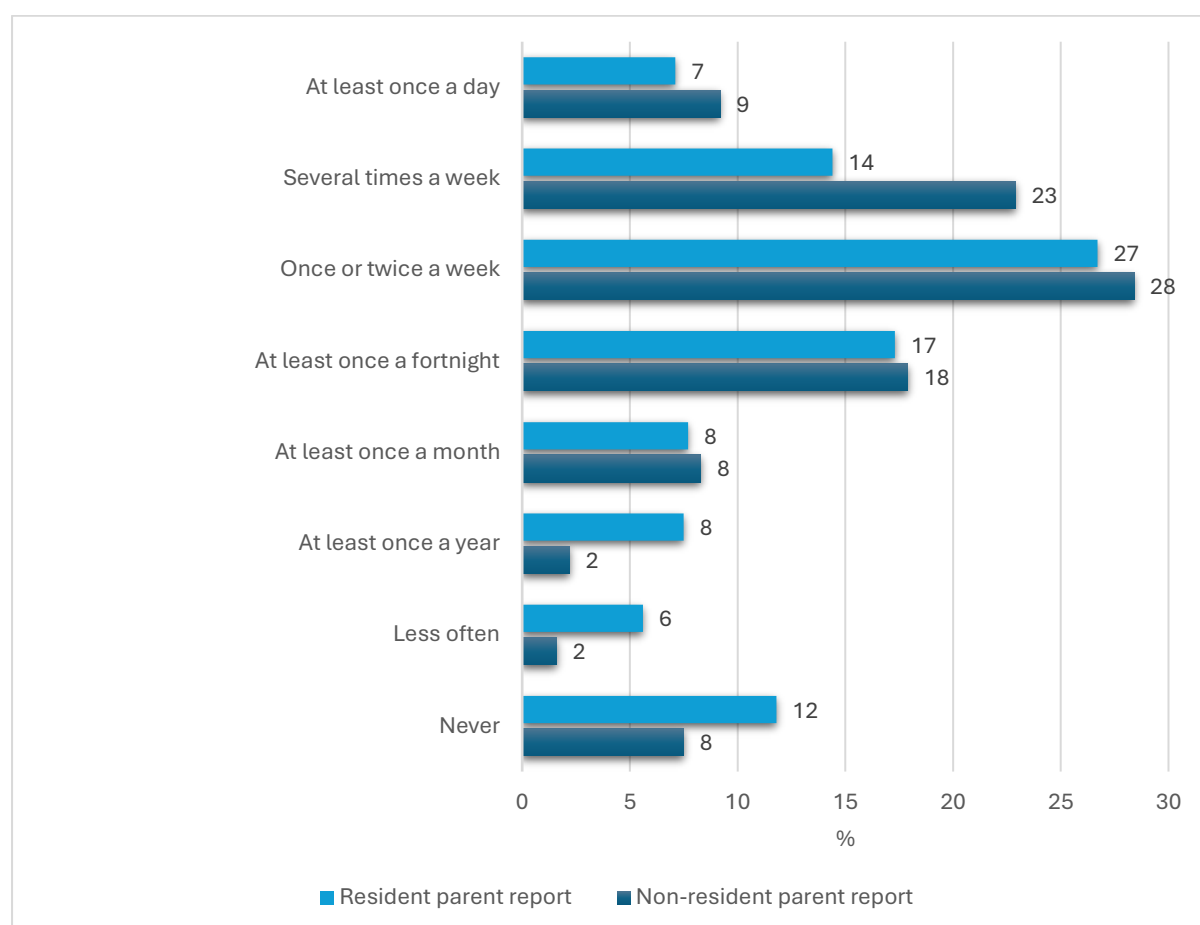
<sup>34</sup> P-value 0.030.

<sup>35</sup> See, for example, N Wikeley et al, *Relationship separation and child support study*, Research Report No 503 (DWP, 2008), Chapter 3.

<sup>36</sup> Fortunately, there looks to be less bias in the *Fair Shares* sample than in studies of separated parents. This is likely because the study focused on divorce rather than child arrangements or child maintenance. Within the wider research evidence on separated parents, non-resident parents are consistently under-represented in surveys, appearing in fewer numbers than resident parents, with those taking part more likely to report higher levels of contact and greater compliance with child maintenance arrangements (see C Bryson and S McKay, *Non-resident parents: why are they hard to capture in surveys and what can we do about it?* Centre for Social Exclusion Working Paper 210, London School of Economics, 2018, <https://sticerd.lse.ac.uk/dps/case/cp/casepaper210.pdf>).

<sup>37</sup> Resident fathers often reported very frequent contact between the non-resident parent and their children, with three quarters (73 per cent) reporting at least weekly contact. Given the percentage of resident fathers is higher than we might expect, it may be that some of these cases are closer to equal time care.

**Figure 5: Frequency of the non-resident parent seeing their child(ren) at the time of divorce, by the reports of resident and non-resident parents**



Bases: resident parents (630); non-resident parents (302)

There is some evidence that younger children were having more contact with their non-resident parent than older children. For instance, according to the resident parents, at the time of divorce, half (52 per cent) of non-resident parents whose youngest child was under five saw their children at least once a week, compared to a third (36 per cent) where the youngest child was aged 15 or more.<sup>38</sup>

These findings are relevant when we look later at ongoing financial support, given the known correlation between contact and compliance with child maintenance arrangements.

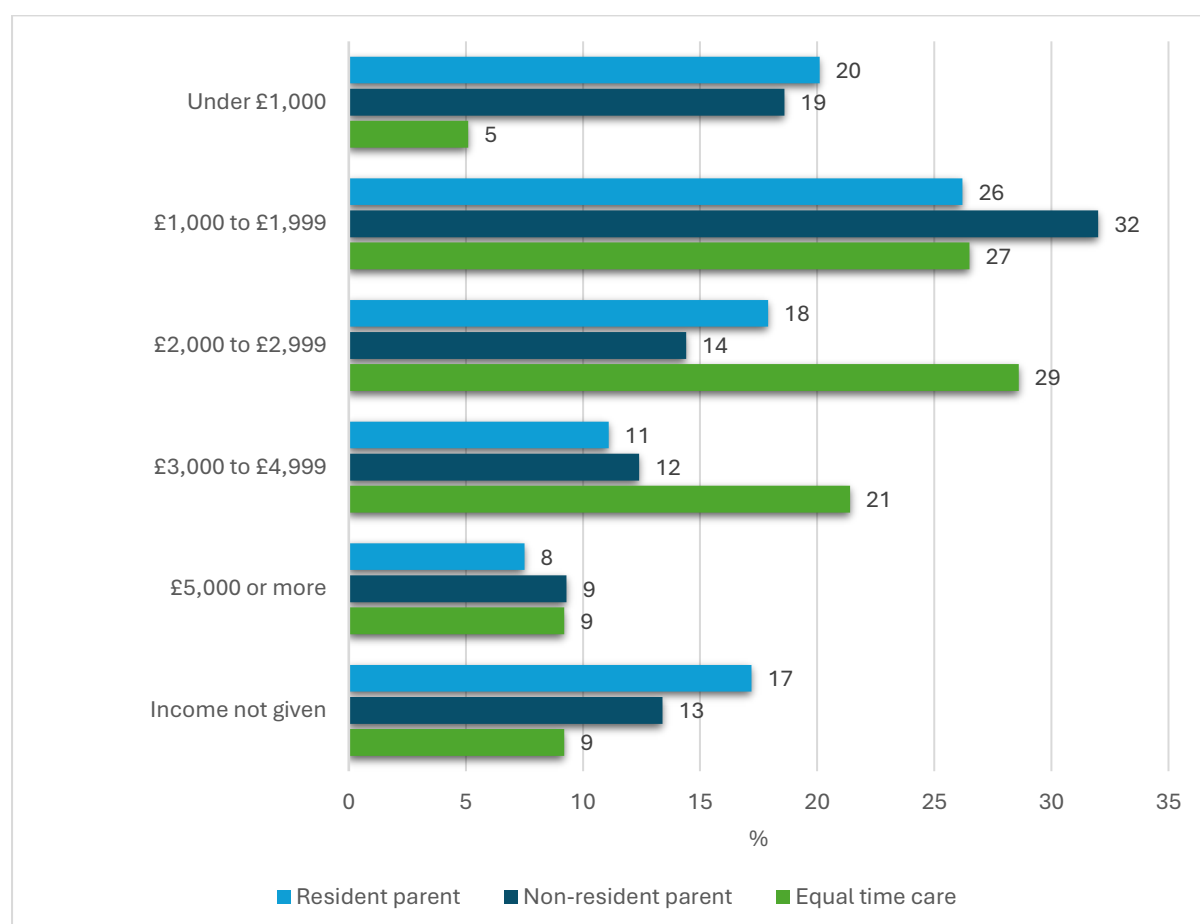
## The relationship between household income, employment and earnings during the marriage and child arrangements after separation

Parents with equal time care after divorce came from marriages where the average household income was higher than in those where one parent became the main carer (Figure 6). For instance, while one in five (20 per cent) of resident parents had previously had a net monthly household income of under £1,000 each month, this was the case for five per cent of parents with equal time care after divorce. At the higher end of the spectrum, one

<sup>38</sup> P-value <0.001.

in five (19 per cent) parents who became resident parents had a monthly household income of £3,000 or more during the marriage, compared to three in ten (31 per cent) of parents with equal time care.<sup>39</sup> Linked with this, mothers who ended up with an equal time care arrangement were more likely to have been working full-time at the point of separation than mothers who later became resident or non-resident parents (e.g. 52 per cent of mothers with equal time care worked full-time compared to 42 per cent of resident parents).<sup>40</sup>

**Figure 6: Household income prior to separation, by the reports of resident and non-resident parents and those with equal time care**



Bases: resident parents (630); non-resident parents (302) ; equal time care (205)

Parents' working patterns were reflected in their take home salaries, with working mothers and fathers who became resident parents much more likely to have lower earnings during the marriage than those who became non-resident parents or parents with equal time care (Figure 7).<sup>41</sup> For instance, three in ten (31 per cent) of working parents who became resident parents earned less than £1,000 each month at the point of separation, compared to one in

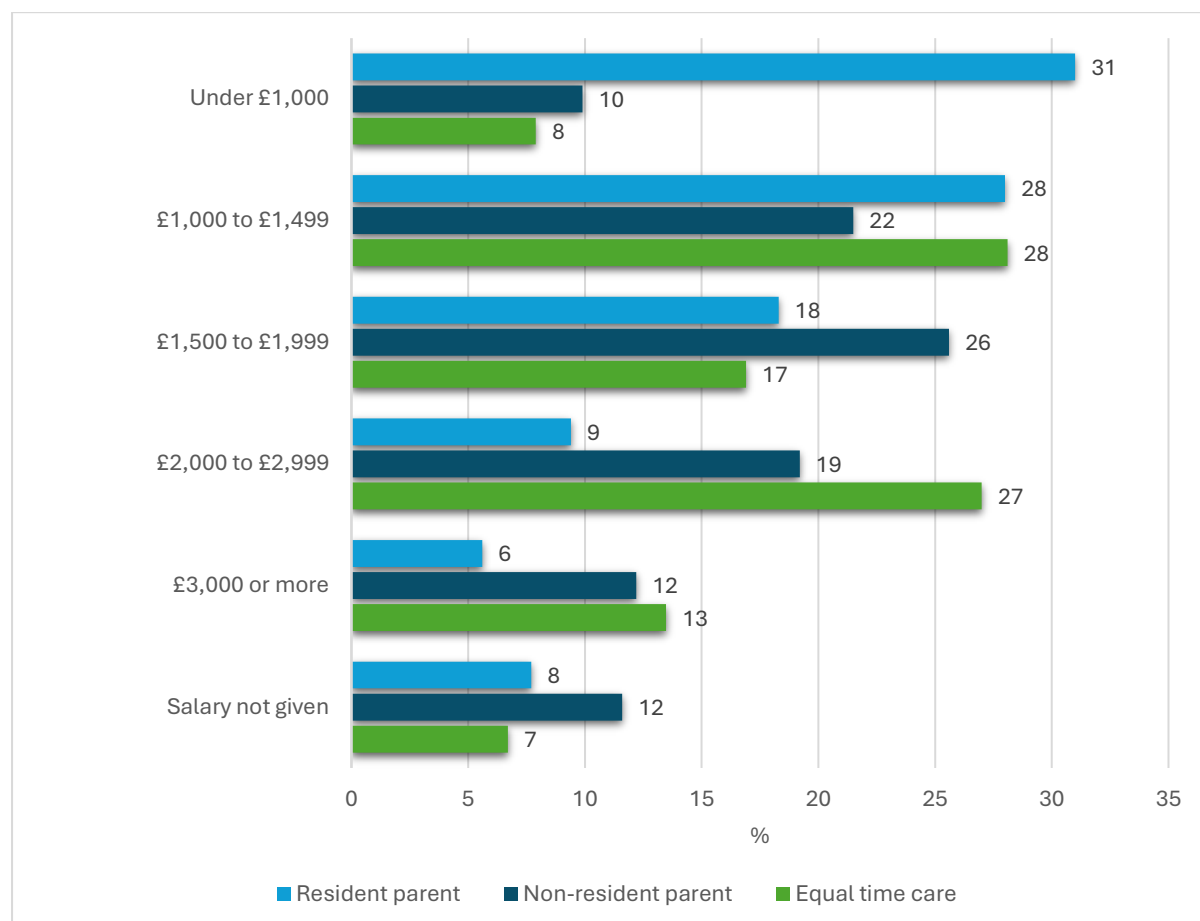
<sup>39</sup> P-value <0.001.

<sup>40</sup> P-value <0.001.

<sup>41</sup> P-value <0.001. When we look separately at mothers and fathers, while resident fathers earned less on average than non-resident fathers, there is little difference in the earnings of resident and non-resident mothers. However, the numbers of non-resident mothers are small, so we cannot put weight on these conclusions.

ten (10 per cent) of working parents who became non-resident parents and eight per cent of those who ended up with an equal time care arrangement.

**Figure 7: Salaries of working parents prior to separation, by the reports of resident and non-resident parents and parents with equal time care**



Bases: working resident parents (537); non-resident parents (270) ; equal time care (192)

Among fathers, the most salient finding relates to those who later became resident parents. It appears that fathers who became resident parents had been taking on a greater share of the caring during the marriage, with only a third (32 per cent) of these fathers working full-time at the point of separation.<sup>42</sup>

When asked how they managed their finances during the marriage – whether they were pooled and managed jointly, whether they were kept separate or whether one party was mainly in control of the finances<sup>43</sup> - parents (both mothers and fathers) with equal time care reported that they had been more likely to have shared some or all of their finances during the marriage than other parents (67 per cent compared to 48 per cent of resident parents and 43 per cent of non-resident parents).<sup>44</sup>

<sup>42</sup> P-value <0.001 compared to non-resident fathers and those with equal time care.

<sup>43</sup> See Figure 3.5 of the main *Fair Shares* report (n 1 above) for more information on this measure.

<sup>44</sup> P-value <0.001.



## The relationship between financial assets from the marriage and child arrangements after separation

In line with evidence about work patterns and income levels, parents who ended up with equal time care arrangements had on average higher levels of assets to divide on divorce than other parents. For instance, seven in ten (72 per cent) had at least £100,000 from their combined assets (equity the home, pensions, savings and other assets), compared to half (46 per cent) of resident parents, and only three per cent had only debts at the end of the marriage, compared to one in five (15 per cent) of resident parents.<sup>45</sup>

Although there were no significant differences in the equity in the matrimonial home, parents with equal time care arrangements were more likely to have owned their home (84 per cent compared to 66 per cent of resident parents).<sup>46</sup>

Parents with equal time care were more likely than other parents to have pension pots for potential sharing,<sup>47</sup> with their pensions being, on average, of higher value.<sup>48</sup> In over half (56 per cent) of cases, both parents in equal time care cases had a pension they were not yet drawing, and in a further one in five (20 per cent) of cases, one parent had a pension. This compared to the reports of resident parents that in a quarter (27 per cent) of cases both parties had a pension they were not yet drawing, and in three in ten (29 per cent) cases, one party had a pension.

Among equal time care cases, mothers and fathers were equally likely to have a pension that they were not drawing at the time of divorce (67 per cent and 71 per cent respectively). In contrast, half (47 per cent) of resident parents had a pension of their own, and a third (36 per cent) were aware that their ex-spouse had a pension.<sup>49</sup>

Among equal time care cases, while fathers were a bit more likely than mothers to have a higher value pension pot, there was far less discrepancy in their values than among other parents, and the differences were not significant.<sup>50</sup> In contrast, as expected given the different work histories of a lot of resident and non-resident parents, the average value of a non-resident parent's pension was much higher than that of a resident parent. Among those who knew the value of the pensions, seven in ten (71 per cent) resident parents' pensions were low value, compared to half (53 per cent) non-resident parents' pensions. At the other end of the spectrum, only four per cent of resident parents had a pension pot which was high value, compared to 17 per cent of non-resident parents.<sup>51</sup>

Perhaps counterintuitively, on average, non-resident parents who replied to the survey reported having higher levels of assets during the marriage than resident parents. For instance, while half (54 per cent) of resident parents reported having under £100,000 (including some having only debts) from the marriage, this was the case of four in ten (42

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<sup>45</sup> P-value <0.001.

<sup>46</sup> P-value <0.001.

<sup>47</sup> Significantly more likely than resident parents, p-value <0.001.

<sup>48</sup> P-value 0.034.

<sup>49</sup> A quarter (25 per cent) of resident parents did not know whether their ex-spouse had a pension.

<sup>50</sup> Although the sample sizes are small, making it harder to detect significant differences.

<sup>51</sup> Non-resident pensions based on the reports of resident parents.

per cent) of non-resident parents.<sup>52</sup> This is potentially due to an overrepresentation of better off non-resident parents. Alternatively, it could be accounted for by a greater level of knowledge of the finances than resident parents.<sup>53</sup> Given that, in reality, the asset value of resident and non-resident parents during the marriage should be the mirror image of each other, we try to account for these discrepancies when we interpret the findings in later sections.

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<sup>52</sup> P-value 0.008.

<sup>53</sup> The calculation of total assets is necessarily restricted to those who knew the value of the assets.

## 4. To what extent do parents take child arrangements into consideration when thinking about what they want from a financial settlement, and how (far) are they taken into account during any negotiations?

### Key findings

**Many divorcing parents with dependent-children prioritised putting their children's needs first, both when considering what they wanted from a financial arrangement and when reaching any financial settlement. This applied regardless of where their children were living.**

**Stability for their children, having a clean break and housing stability were the most cited priorities for all parents, regardless of their child arrangements, when considering what they wanted from a financial arrangement.**

- Half of resident parents and equal time care parents (47 and 53 per cent respectively) and four in ten (43 per cent) non-resident parents identified stability for their children as one of the three most important things they wanted from a financial arrangement. This 'stability' encompassed children's emotional stability, as well as more practical considerations such as educational stability (schooling) and social stability (friends).
- Housing stability was more likely to be important for parents with greater responsibility for their children. A quarter (27 per cent) of resident parents cited this compared to one in ten (12 per cent) non-resident parents.
- Despite having a closer co-parenting arrangement, parents with equal time care were equally likely as other parents to cite wanting a clean financial break.

**Among those who had made a financial arrangement, a key factor for both resident and non-resident parents related to children's living arrangements, although non-resident parents were also more likely than resident parents to have factored in the desire for a clean break.**

- An important factor for many resident (35 per cent) and non-resident (42 per cent) parents who had made a financial arrangement related to where the children were living.
- Non-resident parents had been more likely than resident parents to have taken into account the desire for a clean break (39 per cent compared to 27 per cent).

**For parents with equal time care, there were the practicalities about what they could afford, as well as the value of the former matrimonial home.**

- Equal time care parents were more likely than resident parents to take into account the need to maintain a good relationship with their ex-spouse (34 per cent compared to 19 per cent).

## Introduction

An important backdrop to understanding how parents with different child arrangements navigated the financial aspects of the divorce process is the factors they took into account during any negotiations. This is particularly important within a family justice system which is discretionary and where many divorcees make financial arrangements outside of the formal legal system. In this section, we use the *Fair Shares* survey and interview data to look at this from two perspectives. First, we report on what parents told us about the most important things they wanted from a financial settlement. Secondly, we look at the factors that parents

said they took into account – or would have taken into account – in reaching an arrangement.

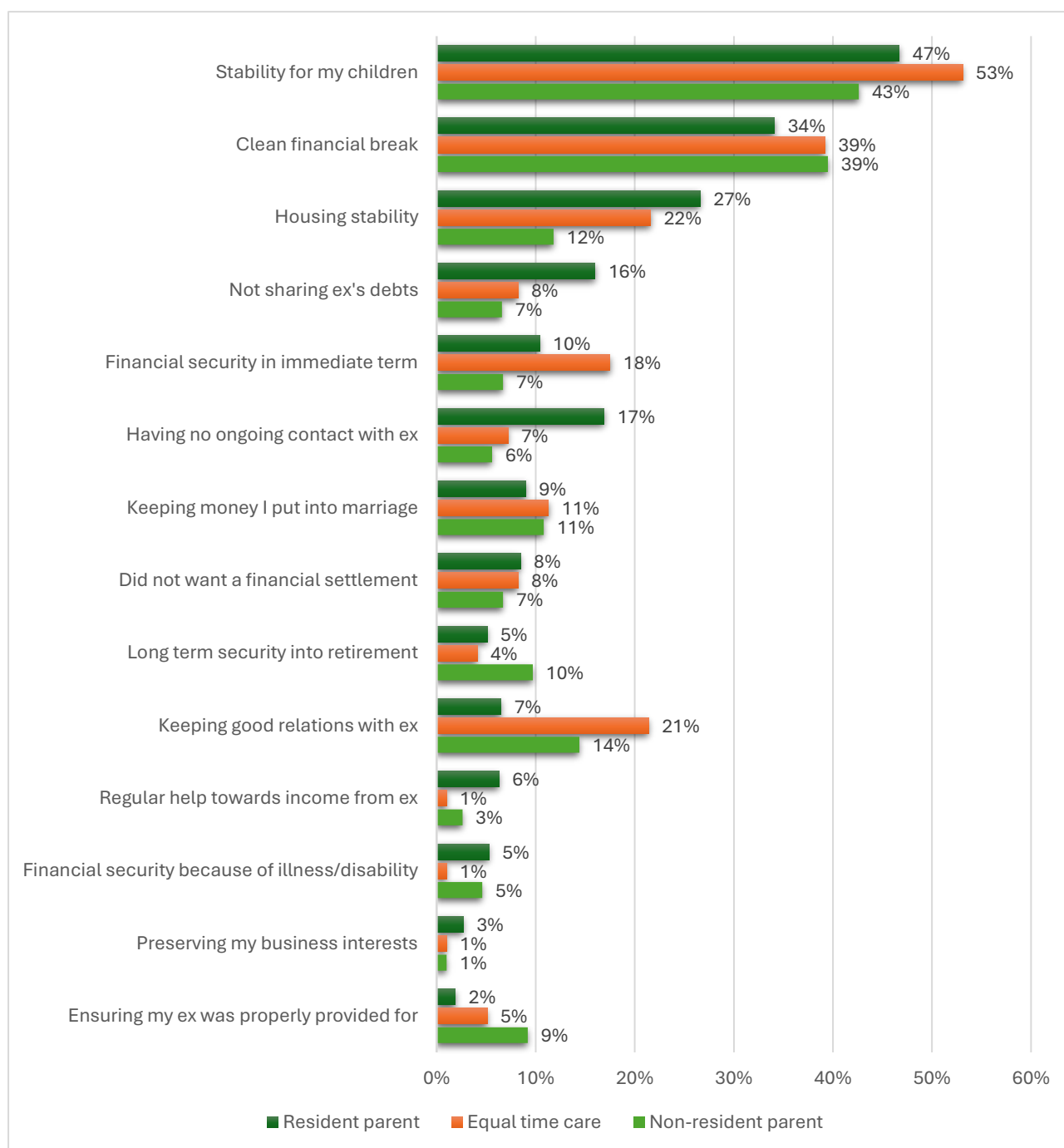
## What parents wanted from a financial settlement

Whilst we recognise that not all parents would have come to an agreement about their child arrangements when they were thinking about the finances, it is a fair assumption that many will have done, and others will have been working with the assumption of a particular arrangement. In order to find out about divorcing couples' motivations and priorities, our survey included a question asking divorcees what they regarded as the most important things that they wanted from a financial arrangement. Participants could choose up to three options. Figure 8 shows the responses of parents, split by whether they said they were a resident parent, a non-resident parent or had roughly equal time care at the point of divorce.<sup>54</sup>

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<sup>54</sup> We also looked at the responses of mothers and fathers, without taking into account where the children lived. Their responses were very similar to those reported by women and men in Figure 5.1 of the main *Fair Shares* report (n 1 above), with the key difference being that more parents (as you would expect) said that stability for their children was important (46 per cent of mothers and 45 per cent of fathers). Mothers were also less likely to say that it was important that they had no ongoing contact with their ex-spouse (13 per cent compared to 19 per cent of all women).

**Figure 8: The most important things that divorcees wanted from a financial arrangement<sup>55</sup>**



Bases: resident parents at divorce (630); parents with equal time care at divorce (205); non-resident parents at divorce (302)

Stability for their children and having a clean break were the most cited issues by parents in all three groups. Parents' views on these issues do not appear to be affected by their child arrangements, with no significant differences between resident and non-resident parents, and parents with equal time care. This finding is reflected in the interview data with both mothers and fathers outlining a range of reasons for prioritising stability for their children,

<sup>55</sup> Readers may want to bear in mind the fact that the non-resident parent sample overrepresents those with more contact with their children.



which ranged from emotional stability, through to practical issues around children's schooling and social lives, to issues around housing.

Part of prioritising children's emotional stability included trying to ensure a good ongoing relationship with their ex-spouse:

You have to think of your children, he's their father and I didn't want a situation where it was such hostility that he wouldn't be able to come round and take his boy out for whatever. I wanted it to be reasonably amicable. [The child's] the innocent party in all this. [...] I wanted [the child] to have a happy childhood and I thought two divorced people killing each other over every last cent is going to make him have an unhappy childhood. I want him to see the best in me but also to see the best in his dad. I think it's different when you don't have children, I think you can be more absorbed about yourself and about what your needs but it's different with children. (Wife – resident parent)

Often providing stability for the children in terms of their schooling and social circles was interconnected with the importance of providing stability for the children in terms of where they were living. On occasions, parents' views on this were linked with the age of their children, and particular life stages. For example, one interviewee suggested that the motivation for transferring the former matrimonial home to his ex-wife was due to the fact that their child would soon be taking their exams, which were 'really critical years' and he did not want to affect his children's future by disturbing them at a crucial point in their lives. In this husband's case, stability for the children also meant continuing to pay private school fees. In the following quote, he reflects on how pushing for more financially (which other friends of his had done) would not have been in his children's best interests:

I mean like I say, I've seen plenty of my mates come out crowing about how they've got a 50/50 split and the kids have had to move school and you just think what a muppet. It's just nonsense, isn't it? (Husband – equal time care)

There are other examples where the motivation to focus on their children's emotional needs and maintain the status quo for their children in terms of their education and social lives meant that they worked towards an arrangement by which the children remained in the matrimonial home:

[T]hey're at an age now where they're at school, they have exams coming up and they're at the teenager age one of them is, so you don't want their lives to be any different. You don't want to have any major changes that's either going to impact them education wise or mentally wise, so you want them to be sorted first. ... [A]nd there to be no uproar in the children's lives in terms of moving schools, moving addresses, moving away from friends. So that played a major part and I suppose that's why we were able to work together. (Husband – non-resident parent)

For parents who were unable to stay in the former matrimonial home, motivations to maintain children's stability manifested themselves slightly differently. In the case of one resident mother, this was by 'still doing the same things, still being able to see their friends,

still being able to see me and [ex-husband], albeit in different houses.' Therefore 'social' stability in the form of continuity of friends and hobbies was important for some parents in the absence of continuity in the matrimonial home.

In other respects, priorities differed for parents who had greater or fewer caring responsibilities for their children. Unsurprisingly, housing stability was more likely to be an important issue for parents with greater responsibility for their children. A quarter (27 per cent) of resident parents and a fifth (22 per cent) of those with equal time care cited this compared to one in ten (12 per cent) non-resident parents.<sup>56</sup>

Seventeen per cent of resident parents were motivated to remove the need for ongoing contact with the other parent. Unsurprisingly, the percentages were much lower for parents with equal time care (seven per cent) and non-resident parents (most of whom will be wanting ongoing contact with their children) (six per cent).<sup>57</sup> There was limited data on this point from the interviews, although for one of the few parents who did mention this motivation, there was a background of domestic abuse which was a major driving factor in wanting to have no ongoing contact with their ex-spouse. Conversely, parents with equal time care and non-resident parents were more concerned than resident parents to keep good relations with the other parent (21 per cent, 14 per cent and seven per cent respectively).<sup>58</sup> This was reflected in the qualitative data, with a number of shared care and non-resident parents focused on maintaining an amicable relationship with their ex-spouse:

I'm not rich by any stretch of the imagination, but it just wasn't important to me to argue over money. [...] and I just thought for the sake of what could equate to 3, 4, £5,000, it's not worth creating animosity when I've got to co-parent two children with him for the next god knows how many years really. So it was just an easy decision. (Wife – equal time care)

For other parents, wanting to ensure that future financial issues were not a point of potential disagreement was important, whilst for others, it was important to keep things amicable so that children did not get 'stuck in the middle'. Other interviewees suggested that it was important to them that the whole separation process was done honourably and out of respect for the fact that they had raised children and shared a number of years together:

I think ultimately, we were two good people who still have a lot of feelings in terms of caring about each other, where there's a lot of mutual respect and for the most part, we actually had a really lovely marriage and we have a family and we've got two kids and we want everyone to be happy and to be able to get on with their lives and fairly. (Wife – resident parent)

Although the numbers in the survey prioritising ongoing financial help from their ex-spouse were very small, it is unsurprising that resident parents were more concerned about this than

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<sup>56</sup> P-value comparing resident and non-resident parents <0.001; comparing equal care and non-resident parents 0.023.

<sup>57</sup> P-value comparing resident and non-resident parents <0.001; comparing resident parents and those with equal time care 0.050.

<sup>58</sup> P-value comparing non-resident and resident parents 0.002; comparing resident parents and those with equal time care <0.001.

other parents (six per cent, compared to one per cent with equal time care and three per cent of non-resident parents).<sup>59</sup> Conversely, non-resident parents were more likely to talk about ensuring that their ex-spouse was properly provided for (nine per cent compared to two per cent of resident parents and five per cent of parents with equal time care).<sup>60</sup>

## Factors taken into account when making a financial arrangement

Parents were asked in the survey what factors they took into account when they were trying to reach a financial arrangement, being asked to choose from a prespecified list. Table 1 shows the responses of parents who had come to a full or partial financial arrangement.<sup>61</sup> Our interest here is in the extent to which the factors they took into account were related to their child arrangements.

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<sup>59</sup> P-value comparing resident and non-resident parents 0.039; comparing resident parents and those with equal time care 0.007.

<sup>60</sup> P-value comparing non-resident and resident parents <0.001. There was no significant difference between non-resident parents and those with equal time care.

<sup>61</sup> The numbers of parents trying to reach a settlement, or having given up reaching a settlement are relatively small to present.

**Table 1: Factors taken into account when making a financial arrangement**

	Resident parents	Parents with equal time care	Non-resident parents
	%	%	%
<b>Financial and practical considerations</b>			
The value of the home	37	48	31
Having a clean break	27	30	39
Whose name the property/money/pension/assets/belongings were in	17	18	15
The value of the pension	20	20	16
Who had money/property before marriage	16	12	11
Who had paid in more during the marriage	13	12	10
Whose name the debts were in	16	8	11
A pre-nuptial agreement	1	0	4
<b>Family and caring considerations</b>			
Where the child(ren) were living	35	18	42
The time I/my ex had spent looking after the home/children	24	23	15
Who most needed the money after the divorce	20	8	14
Providing ongoing financial help for me/my ex	9	7	17
Giving some of it to our child(ren)	7	3	11
<b>Legal considerations and fairness</b>			
What one/both of us thought was fair	31	43	30
What we were advised by a lawyer/other professional	33	13	16
The length of the marriage	19	8	16
What the law said/we thought it said	13	10	13
<b>Relationship considerations</b>			
Trying to keep a good relationship with my ex	19	34	24
Whose fault it was the marriage had ended	9	2	12
Frightened or intimidated by my ex	13	5	6

Base: Resident parents (330), parents with equal time care (144) and non-resident parents (202) with full or partial financial arrangements.

A key factor for many resident (35 per cent) and non-resident (42 per cent) parents who had reached an agreement related to where the children were living, with the reasons for this rehearsed above in the section about parents' motivations.<sup>62</sup>

<sup>62</sup> This was less the case for parents (18 per cent) with equal time care, given that their children were likely to be living across two households. P-value comparing resident parents and equal time care 0.001; comparing non-resident parents and equal time care <0.001.

Practical issues also came into play about the value of the equity of the home and the implications for what they could afford. This was the case for all parents, but particularly for parents with equal time care (48 per cent of whom mentioned this).<sup>63</sup> The issue of limited equity was not considered in a vacuum, with the qualitative data highlighting the impact on children of decisions to sell the family home. For example, this interviewee (a non-resident parent) explained that if they sold the former matrimonial home, they would only have been left with a small amount of equity and this would not have been in the children's best interests:

And then, you'd both be renting separately, what with her income and what she can afford, they're going to be living in a far inferior property with all the stress that comes from renting and dodgy landlords, and then you can get kicked out like with three months' notice. I didn't want that for my children. So, there was always a sense of begrudging that she gets it, of course. I mean, I can't imagine that anyone else in the world has ever been happy doing that. But if it hadn't been for the children, I'd have fought her tooth and nail and said, I've paid more towards it, so it's mine. But with children you just have to sort of accept that's the sort of hit you're going to have to take. (Husband – non-resident parent)

In the survey, resident parents (24 per cent) were more likely than non-resident parents (15 per cent) to take into consideration which parent had been looking after their children during the marriage.<sup>64</sup> This was highlighted in one parent interview where a motivating factor for the resident parent receiving what she considered to be a fair outcome (over 50 per cent of the equity in the home and a share of her husband's pension), was the career sacrifice she had made in order to raise the children.

Linked to this, parents were also more likely to think in terms of needs if they were the main carer rather than having an equal time care arrangement, with one in five (20 per cent) of resident parents saying a key factor for them was who needed most money after the divorce, compared to eight per cent of parents with equal time care.<sup>65</sup> For those resident parents in the interview sample who identified their financial needs as a key factor when making a financial arrangement, one wife noted that she did not want to feel as though she would be destitute, whilst another noted her particular financial needs as a consequence of her children's disabilities:

I've spent a good 15 years with him, raising his children which both have autism and I'm still having to be a full-time mum because of their special needs, so it's not easy for me to go out and get a job because I've always got to go to different meetings and different places with regards to his children, so obviously my pension I will not have hardly anything and I just think I'm raising your children with all the needs they have, at least you know he could help support what I've had to not been able to do. (Wife – resident parent)

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<sup>63</sup> Parents with equal time care were significantly more likely than non-resident parents to say this, p-value 0.009.

<sup>64</sup> P-value 0.034.

<sup>65</sup> P-value 0.008.



Non-resident parents who had reached an arrangement were more likely than resident parents to have taken into account wanting a clean break (39 per cent compared to 27 per cent).<sup>66</sup> Some of the qualitative data provides an indication of why some non-resident parents focused on this as an aim. This included non-resident parents wanting financial commitments between the couple to come to an end as well as wanting to move on financially. It was important for some of these non-resident parent interviewees to finalise everything so that their ex-spouse was unable to come back for anything financially and their child(ren) did not get drawn into any ongoing financial disputes:

We both just wanted to move away and keep things as amenable as possible so that our son didn't get stuck in the middle of it, there's never been any squabbling about who gets who and who gets what. I just didn't want to be around it anymore I just wanted to be away from it and crack on really. (Husband – non-resident parent)

However, non-resident parents who had reached an arrangement were also more likely than other parents to factor in ensuring that their ex-spouse was adequately provided for (17 per cent of non-resident parents compared to seven per cent of parents with equal time care and nine per cent of resident parents).<sup>67</sup> This was reflected in the comments of the following interviewee who noted how it was important to treat their ex-spouse honourably as well as consider the contribution they had made to the marriage and what they needed from a financial perspective:

[W]ith regard to my ex-wife, she didn't do anything wrong and she'd committed a portion of her life to me and our children and I think you have to treat people in the way you'd like to be treated yourself and I'm a firm believer of that and I felt that she should be treated in an honourable way, and that's what I did. (Husband– non-resident parent)

Similarly, parents with equal shared time were more likely than resident parents to take into account the need to maintain a good relationship with their ex-spouse (34 per cent compared to 19 per cent).<sup>68</sup> This is probably due to the ongoing need for a close working relationship between a couple sharing ongoing care of their child(ren). One interviewee explained that this was important as the divorce wouldn't end his relationship with his ex, but instead, the divorce was the beginning of a new phase in their lives - the co-parenting of their children:

You've had this tumultuous thing in your life and then it's almost like 'oh yeah, you're divorced now, you can move on' is what a lot of people say to you. And I think, it's just the start, isn't it, it is, it is just the start and I know that God willing, I'm still going to, you know, even when my, in 20 years' time when my kids get married, I'm still going to be seeing my ex-wife, right, we're going to be co-

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<sup>66</sup> P-value 0.017.

<sup>67</sup> P-value comparing non-resident parents and resident parents 0.020; comparing non-resident parents and equal time care 0.033.

<sup>68</sup> P-value 0.002.

grandparents together right, that's how life is going to be, it's not like I'm never going to see her again. (Husband – equal time care)

Resident parents were more likely than others to factor in feelings of fear or intimidation (13 per cent when coming to a financial arrangement compared to five per cent of equal time cases and six per cent of non-resident parents).<sup>69</sup> Whilst we discuss our findings in relation to the issue of domestic abuse in financial remedies cases in more detail elsewhere,<sup>70</sup> on this particular point, the qualitative data provided examples of some resident parents who were faced with feelings of fear and intimidation when making financial arrangements. In one case, they were able to put in place protection orders for themselves and their children, whilst for others, they were unable to push for a better deal due to the ongoing intimidation which they experienced during the process:

I was too frightened to discuss trying to get more than the 50%. Not frightened, but just because [he was] so set in he deserved no less than 50/50, but then that's really hard to have a conversation to try and negotiate anything on any matter. (Wife – resident parent)

Furthermore, for those parents who were unable to come to any arrangement, fear, intimidation and abuse was a factor raised by some interviewees in why they had to walk away without a financial arrangement in place.

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<sup>69</sup> P-value comparing resident parents and non-resident parents 0.022; comparing resident parents and equal time care 0.045.

<sup>70</sup> See E Hitchings and C Bryson, *Dividing property and finances on divorce: what happens in cases involving domestic abuse?* (University of Bristol, 2024).

## 5. How (far) have parents with different child arrangements taken different pathways to dividing their finances and property and making decisions around ongoing child maintenance, and why?

### Key findings

**Resident parents were more likely than non-resident parents and parents with equal time care to engage a lawyer at some point during the divorce process, with a key reason for both resident and non-resident parents being that they felt uncomfortable negotiating with their ex-spouse. However, fear of costs was a major factor in resident and non-resident parents not using a lawyer.**

- Seven in ten (69 per cent) resident parents had engaged a lawyer at some point during their divorce process, compared to half of non-resident parents (54 per cent) and parents with equal time care (52 per cent). However, resident parents were no more likely to do so than other parents in relation to sorting out their finances or child arrangements.
- For those who used a lawyer throughout, six in ten (59 per cent) resident parents and a third (37 per cent) of non-resident parents said that they did so because they did not feel comfortable negotiating with their ex-spouse.
- Where resident or non-resident parents did not use a lawyer at all, or only used them for part of the process, this was often through constraint rather than choice, with six in ten resident parents (58 per cent) and just under half (45 per cent) of non-resident parents who did not use a lawyer saying this was due to the costs involved, with similar numbers among those who used a lawyer for only part of the process.

**Equal time care parents were more likely to negotiate a financial arrangement themselves compared with other parents and they were much more likely than other parents to feel that both parties had had an equal say in the final arrangement. Among parents who incurred costs, parents with equal time care spent less on average than resident parents.**

- A high proportion of those with equal time care arrangements had negotiated a financial settlement themselves, compared to other parents. In contrast, resident and non-resident parents were more likely to have involved lawyers.
- Many parents with equal time care said that the reason that they did not use a lawyer, or only used them for part of the process, was because they could discuss things well with their ex-spouse. However, despite having negotiated an equal time care arrangement, relations were not always good, with substantial minorities of equal care time parents reporting that they had had problems communicating with their ex-spouse.
- Among those with an arrangement across all financial aspects, parents with equal time care (67 per cent) were much more likely than other parents (38 per cent of resident parents and 37 per cent of non-resident parents) to feel that both parties had had an equal say in what was finalised.
- Three quarters (73 per cent) of parents with equal time care with an arrangement covering all aspects of their finances thought it was very or fairly fair, compared to six in ten (59 per cent) resident parents and fewer than half (46 per cent) of non-resident parents.
- Among parents who incurred costs, parents with equal time care spent less on average than resident parents; 36 per cent of parents with equal time care incurred under £1,000 of costs, compared to 23 per cent of resident parents.

## Introduction

During the survey, divorcees were asked how they 'sorted out finances and property' as part of their divorce. They were asked the routes they had taken during the divorce process, including whether they had used lawyers at various points in the process and whether they had used other forms of negotiation. They were asked whether or not they had come to an arrangement and, if so, how that arrangement had been reached.

Here, we report on the divorce process from the perspectives of parents who were, or became, resident or non-resident parents, or had an equal time care arrangement. While some parents will have known what their child arrangements would be during the divorce process, for others it will have been part of the negotiations. However, it is reasonable to assume that parents will have been working towards a particular child arrangement, and hence this would have affected the nature of the financial arrangements they were attempting to reach.

In making comparisons between resident and non-resident parents, we need to acknowledge that the non-resident parents in the sample to some degree overrepresent those with more involvement in their children's lives post-divorce. Two key observable differences in the data are that, compared to resident parents in the survey, the non-resident parents were somewhat better off during the marriage and more likely to have contact with their children after divorce than the ex-spouses of the resident parents.<sup>71</sup>

## Involving lawyers and out of court negotiations

The use of lawyers was more common among parents than among divorcees with no children. While those with non-dependent children were more likely than parents with dependent children to have used a lawyer at any point during the divorce process (70 per cent compared to 61 per cent)<sup>72</sup>, parents with dependent children were more likely to have used a lawyer in relation to their finances (36 per cent compared to 28 per cent of those with older or no children).<sup>73</sup>

What is interesting to us here is whether parents with different child arrangements make different decisions about involving lawyers. While resident parents had been more likely than other parents to have used a lawyer at some point (69 per cent, compared to 54 per cent of non-resident parents and 52 per cent of parents with equal time care<sup>74</sup>), there were no

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<sup>71</sup> As a reminder, the resident and non-resident parents in the *Fair Shares* sample did not come from the same divorce case. Rather, the survey was one of divorcees rather than divorce cases.

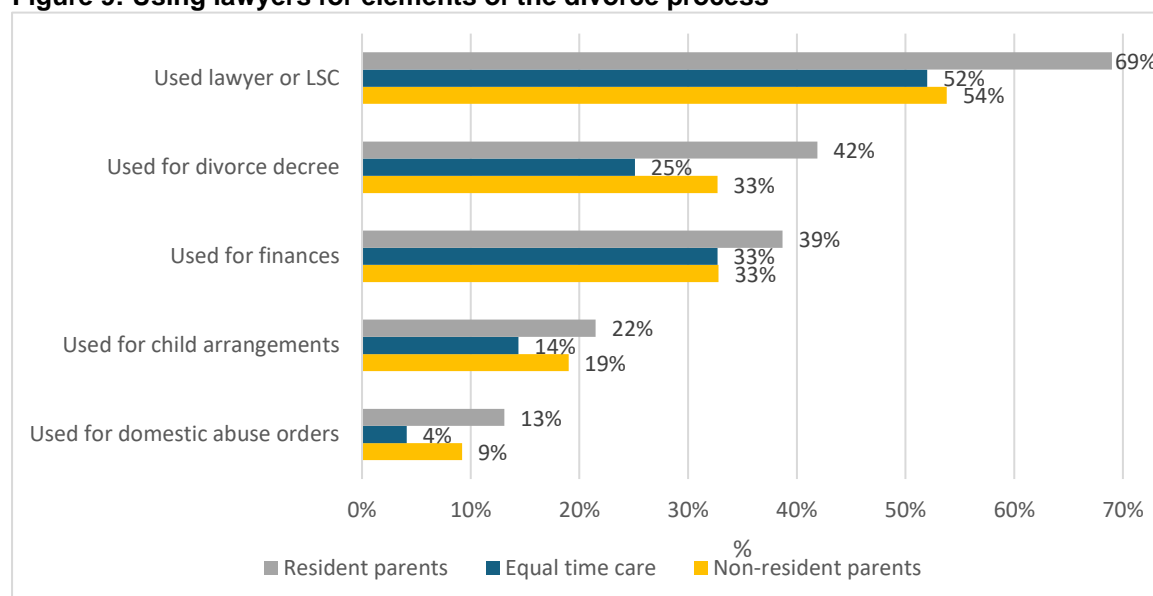
<sup>72</sup> P-value 0.015. The figure was 46 per cent among divorcees with no children, p-value <0.001 in relation to differences with parents with dependent children.

<sup>73</sup> Significantly more likely than those with no children, p-value 0.002, but not significantly different to those with older children.

<sup>74</sup> P-value comparing resident and non-resident parents 0.003; comparing resident parents and parents with equal time care 0.001. Those who had used a lawyer were asked whether they instructed them for the whole process, or used them for specific elements. There were no significant differences between the three groups of parents in this respect.

significant differences in the proportions using a lawyer in relation to their finances, or indeed in relation to child arrangements (Figure 9).<sup>75</sup>

**Figure 9: Using lawyers for elements of the divorce process**



Bases: resident parents at divorce (630); parents with equal time care at divorce (205); non-resident parents at divorce (302)

Divorcees were asked in the survey the reasons why they chose to get, or not get, legal advice or support during the divorce process. Among those who used a lawyer, different questions were asked of those who instructed a lawyer for the entire process and those who used them for particular aspects. Our particular interest here is in the extent to which parents' rationale for seeking or not seeking legal advice appears related to their relationship with their ex-spouse or their child arrangements. Here, we summarise the main points from the survey questions, augmented with what parents told us during the qualitative interviews.

The first key point is that many resident and non-resident parents mentioned factors relating to difficult relationships with their ex-spouse, albeit that resident parents were even more likely than non-resident parents to cite these issues. This helps in our understanding of the backdrop to any negotiations they did, or did not, enter into in relation to their financial or child arrangements. Among those who had used a lawyer throughout the process, six in ten (59 per cent) resident parents and a third (37 per cent) of non-resident parents said in the survey that it was because they did not feel comfortable negotiating with their ex-spouse,<sup>76</sup> and a quarter (26 per cent) of resident parents and one in five (17 per cent) non-resident parents did so because of domestic abuse.<sup>77</sup>

<sup>75</sup> The only significant differences relate to resident parents being more likely than non-resident parents to use a lawyer in relation to the divorce decree (p-value <0.001), and being more likely than parents with equal time care to use a lawyer in relation to a domestic abuse order (p-value 0.035).

<sup>76</sup> The percentage of resident parents was significantly higher than non-resident parents (p-value 0.016), and both resident and non-resident parents were significantly more likely to say this than parents with equal time care (p-values of <0.001 and 0.049 respectively).

<sup>77</sup> Resident parents were not significantly more likely than non-resident parents to say this. However, both groups of parents were significantly more likely than parents with equal time care to say this (p-values of <0.001 and 0.040 respectively).

Where resident or non-resident parents did not use a lawyer at all, or only used them for part of the process, this was often through constraint rather than choice. Six in ten resident parents (58 per cent) and just under half (45 per cent) of non-resident parents who did not use a lawyer said this was due to the costs involved, with similar numbers among those who used a lawyer for part of the process.<sup>78</sup> Whilst some interviewees did everything themselves because they were mindful of the fact that they didn't have significant assets and 'just wanted to keep the costs down' (wife – resident parent), for other interviewees, they were fearful of the potential costs involved despite having some assets.

Only minorities of resident parents in these positions said in the survey that it was because they could discuss things well with their ex-spouse (16 per cent of those using a lawyer for part of the process and 18 per cent of those who did not use a lawyer at all). In the following case, the interviewee noted how she was able to discuss things reasonably well with her ex-spouse, although she knew that the option of engaging lawyers was available if needed and she had used some drop-in advice previously:

I went to kind of like a drop-in with a solicitor just for like some free advice, just about the children because basically the arrangements of custody were kind of going back and forth a little bit and changing [...] I was just lucky that we were both quite reasonable and didn't really want much fuss, so having a lawyer as well as it being an expense that we probably both couldn't have afforded, it would've felt a bit heavy handed getting like lawyers involved.. (Wife – resident parent)

As we might expect, parents with equal time care talked less about difficulties with their ex-spouse. Six in ten (59 per cent) equal time care parents using lawyers for only part of the process and four in ten (44 per cent) of those who had not used a lawyer said in the survey that it was because they could discuss things well with their ex-spouse. As one equal time care husband explained, maintaining some form of good relations by not causing a 'fuss' or 'messaging each other about' was part of the consideration in not using lawyers. However, despite having navigated an equal time care arrangement, relations were not always good, with substantial minorities reporting that they had had problems communicating with their ex-spouse. For instance, 30 per cent of those who said they used lawyers said in the survey that it was because they could not discuss things well with their ex-spouse. Likewise, they were as likely as other parents to say that they had not used lawyers (for all or any of the process) because of the costs involved.

The qualitative data provided additional reasons why parents with equal time care used a lawyer. This included the bespoke nature of the arrangement, the need to be fair to both parties, and the importance of being seen to be doing things correctly: 'that little badge on my shoulder so I could say to everybody, yeah, I'm doing that right [...] and I didn't want anybody saying "well he's not contributing".' (Husband – equal time care)

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<sup>78</sup> There are no significant differences between resident and non-resident parents and parents with equal time care.

## Reaching an arrangement

Divorcees were asked in the survey whether they had reached a financial arrangement, distinguishing between arrangements made on all or only some financial aspects. They were also given option to say that they had 'gone their separate ways' or had nothing to divide. We know from the main *Fair Shares* report that divorcees' perceptions about whether or not they had 'reached an arrangement' were to some extent subjective. It appears that, to some, the term 'arrangement' must have been understood as meaning a formal settlement, as it was not the case that all those reporting going their separate ways or feeling they had nothing to divide had in fact not divided their assets.

Overall, parents with dependent children were less likely than those with older, non-dependent children to have reached a formal arrangement (51 per cent compared to 61 per cent).<sup>79</sup> Instead, they were more likely to say that they had nothing to divide (21 per cent compared to seven per cent). On the other hand, parents with dependent children were *more* likely than divorcees without children to have reached a formal arrangement (51 per cent compared to 44 per cent),<sup>80</sup> with those without children more likely to have 'gone their separate ways' (27 per cent compared to 15 per cent of parents).

Among those who had reached a formal arrangement, there were no notable differences between parents and other divorcees in the number of arrangements made via lawyers, and no notable difference in the proportion of arrangements made into orders (50 per cent among parents, 43 per cent among those with older, non-dependent children and 48 per cent among other divorcees). However, among those who had reached a formal arrangement, parents with dependent children were more likely than those with older, non-dependent children, but less likely than those with no children (50 per cent, 36 per cent and 63 per cent) to have negotiated a settlement between themselves, and less likely to have done so through mediation (12 per cent, 27 per cent and six per cent respectively).<sup>81</sup>

However, again, our key interest here is in what happened to parents with different child arrangements (Figure 10). Significantly fewer resident parents (45 per cent) reported having reached a full or partial arrangement than non-resident parents (62 per cent) or parents with equal time care (58 per cent). Instead, more resident parents (27 per cent) than non-resident parents (17 per cent) or parents with equal time care (14 per cent) said that they had nothing to divide. While it may appear counterintuitive that fewer resident than non-resident parents reported having reached a full or partial arrangement, it likely reflects their differing perceptions. This may be due to the fact that in cases where resident parents remain in the family home, either owned or rented, their perception may be that nothing has materially altered, which may have led some resident parents to the conclusion that no arrangement had been made. Alternatively, the finding that fewer resident parents reported having reached a full or partial arrangement, may be exacerbated by the fact that resident parents were more likely to report lower levels of assets than non-resident parents.<sup>82</sup>

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<sup>79</sup> P-value 0.036.

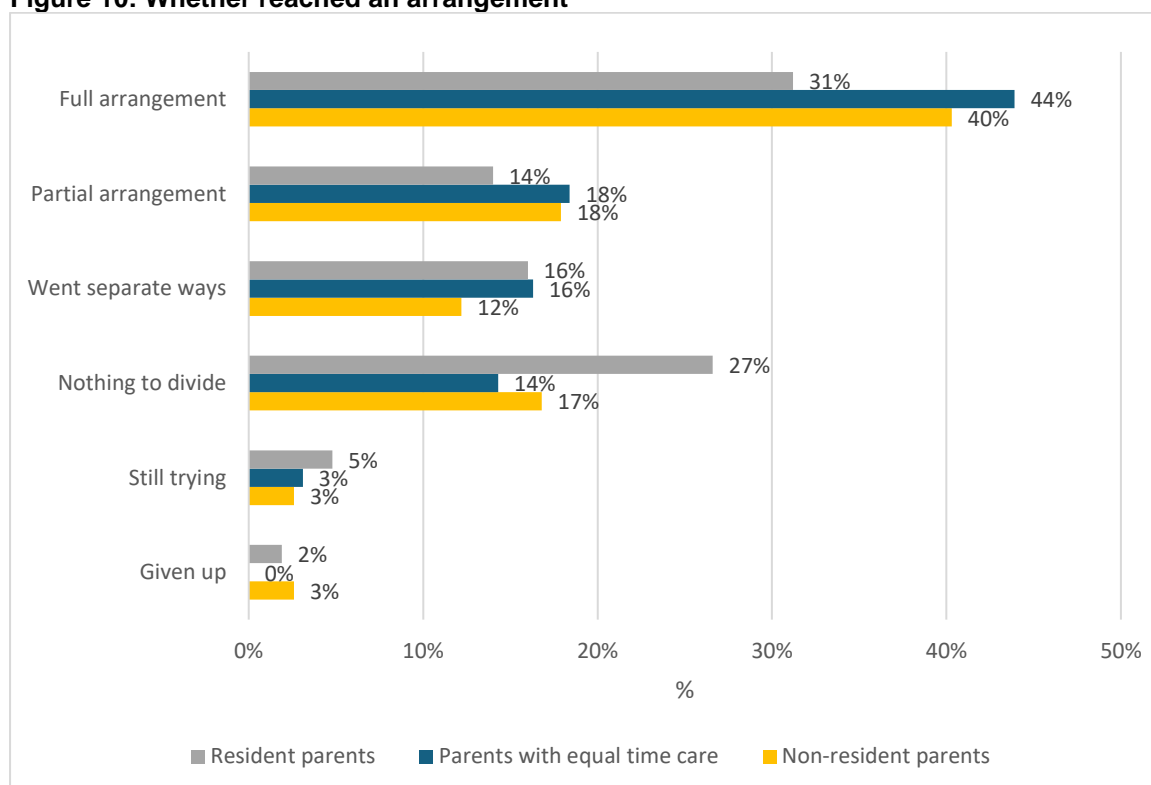
<sup>80</sup> P-value 0.012.

<sup>81</sup> Significant differences in how the arrangements were made. P-value 0.007 comparing parents with dependent or older children; p-value <0.001 comparing parents with dependent children or divorcees with no children.

<sup>82</sup> See p.17-18 above.



**Figure 10: Whether reached an arrangement**



Bases: resident parents at divorce (630); parents with equal time care at divorce (205); non-resident parents at divorce (302)

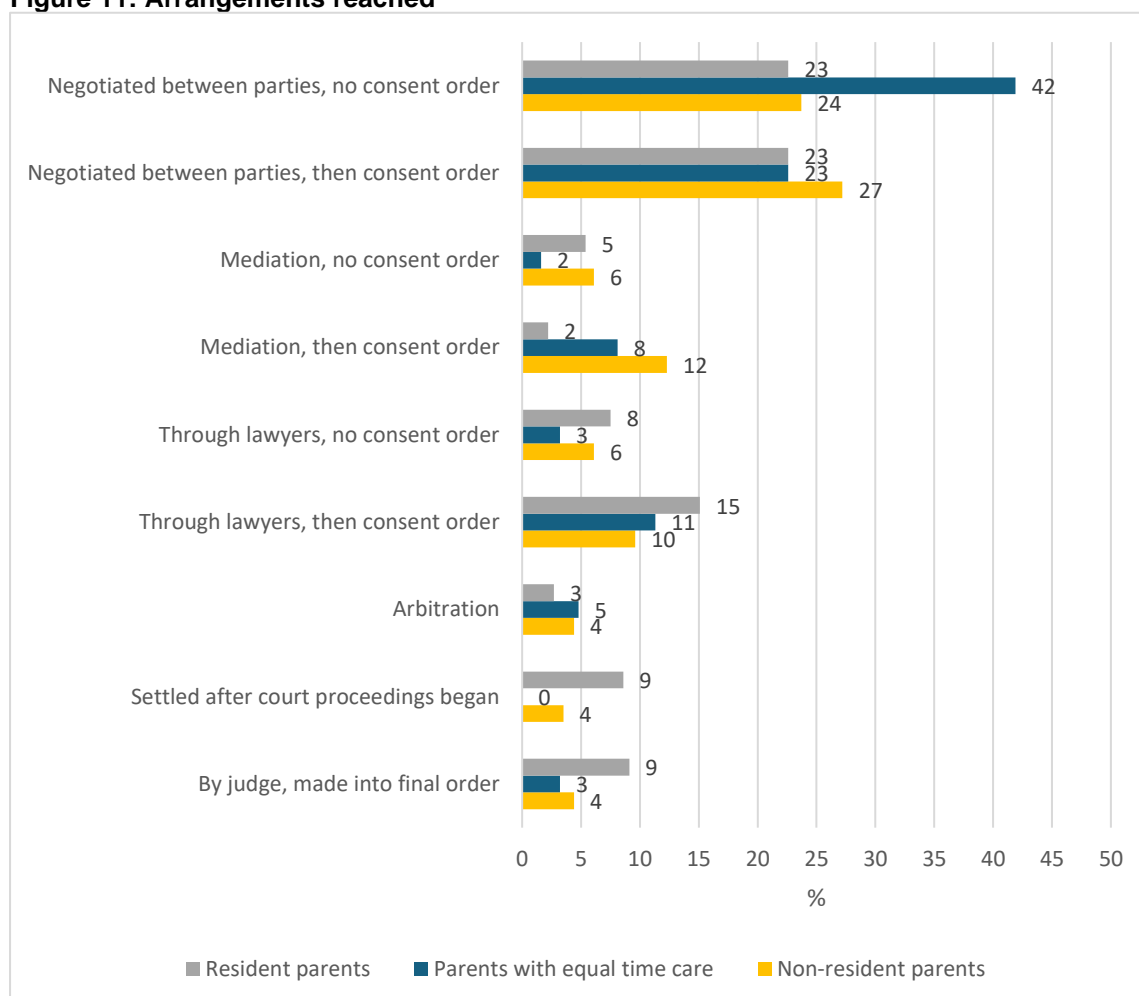
When divorcees were asked if they had attempted to reach a settlement using out of court routes to reaching a financial arrangement – mediation, negotiations via lawyers, arbitration or collaborative law – there were no significant differences in the percentages of resident (46 per cent) and non-resident parents (42 per cent) or those who ended with equal time care arrangements (40 per cent) who had done so.<sup>83</sup>

However, among those who had a formal arrangement, there were differences in the routes by which these had been made (Figure 11),<sup>84</sup> with a key finding being the high proportions of those with equal time care arrangements who had negotiated a financial settlement themselves, compared to other parents. Two thirds (64 per cent) of parents with equal time care arrangements had negotiated a financial settlement themselves, largely without formalising it with a court order (42 per cent). This compares with half of other parents (45 per cent of resident parents and 50 per cent of non-resident parents), a greater proportion of whom later obtained a court order (23 per cent and 27 per cent).

<sup>83</sup> However, overall, parents with dependent children were less likely than those with older non-dependent children and more likely than those without children to have tried out of court routes (44 per cent, 59 per cent and 27 per cent respectively, p-value <001).

<sup>84</sup> P-value 0.006 compared to resident parents.

**Figure 11: Arrangements reached**



Bases: Resident parents (330), non-resident parents (202) and parents with equal time care (144) with an arrangement

The qualitative data provides some information as to why some parents with equal time care did not go down a legal route. In one case this was due to not wanting the additional expense of having to do so and it being in both parties' interests to 'just figure it out' (husband – equal time care). Another interviewee suggested that the reason for not formalising the arrangement into a court order was due to their personal views on their ongoing responsibilities in relation to the children, which they considered, did not require a court order:

Interviewer: You didn't feel the need to get anything in a court order?

Interviewee: No, I just think that I suppose that was driven by me, because I wanted that, I knew I could commit to that responsibility to, it was about looking after the kids for me, all the stuff for me was about looking after the kids and that's the responsibility I've got whether I'm married, divorced, remarried, whatever, right. So I was never going to give up on that. So I didn't need a court order. (Husband – equal time care)

However, by far from all equal time care cases involved settling their finances themselves. Fifteen per cent used lawyers and three per cent were decided by a judge. For those equal time parents who obtained a consent order, the reasons given were similar to other parents

and those outlined in the main report,<sup>85</sup> in particular, wanting to formalise their arrangement, and to make sure the arrangement was legally binding.

Where parents had not negotiated between themselves, there is evidence that the resident parents in the survey were more likely to seek legal support than the non-resident parents. Resident parents were more likely to use lawyers (23 per cent compared to 16 per cent of non-resident parents)) and to go to court (nine per cent settling after proceedings began and another nine per cent receiving a final order from a judge, with the comparable non-resident parent figures being four per cent with respect to both routes).<sup>86</sup>

The qualitative data provides some indication as to why resident parents felt that they needed to get legal advice. As noted earlier, in some cases this was due to the manipulative nature of their ex-spouse and the sense of protection that having a solicitor could provide. For one resident parent, in reflecting on why they had obtained legal advice at particular points in the process for both child arrangements and finances, she drew attention to the threats being levelled by her ex-spouse against her with regards to future child arrangements and the particular issues for her in relation to finances:

I think it was because of all the threats, and him saying he's gonna be able to get custody. I wanted to find out what actual rights he's got, because it's alright your parents and your friends saying, 'Oh, he's got no chance,' but you just want to know for a fact what chance he'd actually got. So I went to a good solicitor; I went to [name of solicitors]. Again, she basically told me that he'd got no chance of getting custody, so that was brilliant. And then we talked through the financials a little bit, she was the one that said, 'Look, you have got a really good job, you paid more than him. Be careful because he could come after you.' And then again I thought to myself, I just thought that's not what I wanted. (Wife – resident parent)

Reflecting the fact that more parents with equal time care had negotiated their own financial arrangements, they were more likely to have resolved their financial issues earlier in the process than other parents. Eight in ten (80 per cent) said that they had come to a financial settlement before their Decree Absolute was granted, compared to six in ten other parents (61 per cent of resident parents and 64 per cent of non-resident parents).<sup>87</sup> However, across all three groups of parents, there were no significant differences in the proportion of financial arrangements which were made into a court order (48 per cent among resident parents, 53 per cent among non-resident parents and 44 per cent among equal time care cases).

Perhaps unsurprisingly, among those with an arrangement across all financial aspects, parents with equal time care were much more likely than other parents to feel that both parties had had an equal say in what was finalised. Two thirds (67 per cent) of parents with equal time care said this in the survey, compared to a third of resident parents (38 per cent) and non-resident parents (37 per cent).<sup>88</sup> The reasons that emerged from the qualitative data as to why resident and non-resident parents suggested that they did not have an equal say

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<sup>85</sup> *Fair Shares* report (n 1 above), Table 4.4 and associated text.

<sup>86</sup> P-value 0.004.

<sup>87</sup> P-values 0.013 compared to resident parents and 0.050 compared to non-resident parents.

<sup>88</sup> P-value <0.001 comparing against both resident and non-resident parents.

in the final arrangement, included aspects such as issues over disclosure, being happy for their ex to have a greater say because of their own feelings of guilt about the divorce, the other party not engaging in negotiations, as well as one party having a relatively relaxed attitude to the situation. For example, in one interviewee's case, she felt that her ex-husband probably had the greater say when it came to child maintenance due to her not following up on the issue:

I think in terms of the child maintenance thing probably him, because I haven't really chased it up so he's just kind of let that be what it is. (Wife– resident parent)

To some extent, these findings on who considered they had the most say seems to feed into the extent to which parents with a full arrangement felt that what had been decided was fair. Three quarters (73 per cent) of parents with equal time care thought it was very or fairly fair, compared to six in ten (59 per cent) resident parents and fewer than half (46 per cent) of non-resident parents.<sup>89</sup> The difference between resident and non-resident parents is also significant, with more resident parents happy with the financial settlement they received.<sup>90</sup>

The qualitative data provided examples from both resident and non-resident parents who considered that their financial arrangement was unfair. For resident parents, taking on more of the debt, or working in a family business throughout the marriage and that not being reflected in the financial arrangement was raised. From the perspective of non-resident parents, contributions not being reflected in the final arrangement came through quite strongly as a perceived reason for the arrangement being unfair. For example, this non-resident father was focused on his financial contributions during the marriage and his wife taking all of the contents of the former matrimonial home – this was despite the fact that they had agreed (via a consent order) that he would receive slightly more of the equity in the former matrimonial home, but also take on debts that were in his name but had been accrued by both parties:

I used to pay all the bills, I paid for everything, I paid for every item and then when she left, bloody hell, she took all the items with her. But I let her, you know, she took like the telly, everything, you know when she left and went to the council house, there was a lorry out there, you know like a removal, I let her take everything, I just thought it wasn't fair but you do it because you just think, I'm a guy, I'm on my own, she's taking my daughters and the daughters need that. Because I couldn't say to her 'no, don't take the telly' because I'd then be thinking in my head how are they going to watch TV, the kids. So yeah, I don't think the court's fair in that sense, because like I said you know, they don't think about the guy, the court. (Husband – non-resident parent)

However, as the quantitative data showed, equal time parents and a higher proportion of resident parents were happy with their financial arrangements. Reasons for being content with the financial arrangement and viewing it as 'fair' included the arrangement reflecting a spouse's contributions, 'it was fair because I got what I put in' (Wife – resident parent), to being aware of the generous nature of their ex-spouse: 'he doesn't need to give me anywhere near as much as what he does [ ... ] he gives me more than he would legally be

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<sup>89</sup> P-value of 0.045 compared to resident parents and <0.001 compared to non-resident parents.

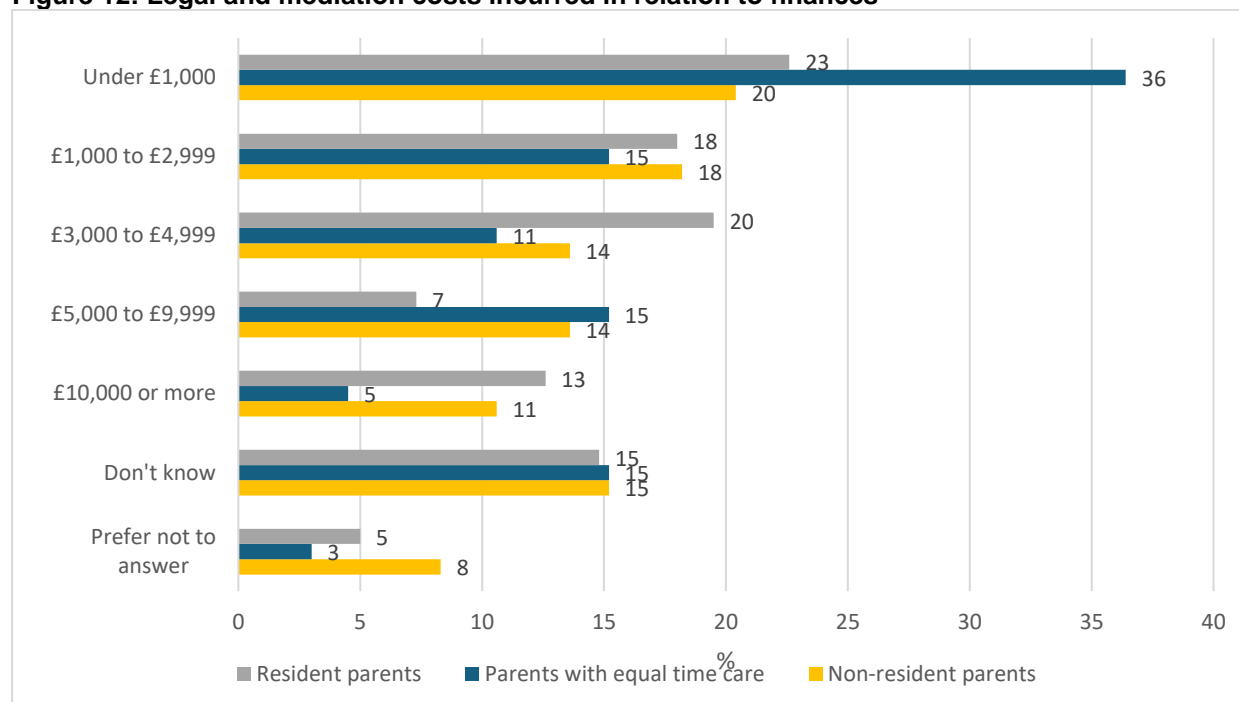
<sup>90</sup> P-value 0.044.

required to on everything.’ (Wife - resident parent) In another case, the resident parent interviewee noted that the arrangement was fair because it met her day-to-day needs.

## Costs

While similar proportions of parents incurred legal or mediation costs in relation to attempts to sort out a financial arrangement, as we might expect, among parents who did incur costs, parents with equal time care spent less on average than resident parents (Figure 12). For instance, a third (36 per cent) of parents with equal time care incurred under £1,000 of costs, compared to a quarter (23 per cent) of resident parents.<sup>91</sup>

**Figure 12: Legal and mediation costs incurred in relation to finances**



Bases: Resident parents (436), non-resident parents (213) and parents with equal time care (141) incurring legal costs

<sup>91</sup> P-value 0.010. There were no significant differences in the costs of resident and non-resident parents.

## 6. How are assets divided between divorcing parents who become the resident or non-resident parent or have equal time care of their children?

### Key findings

**In cases where one parent had main care of their children, resident parents more often received more of the assets than non-resident parents, particularly in low value divorces.**

- Overall, resident parents received more of the monetary value of the assets than non-resident parents with two thirds (63 per cent) of resident parents receiving at least half of the total assets. However, this was particularly the case in low value divorces (76 per cent of resident parents received at least half of the total assets), and where the home was rented.
- Transfer of ownership of the matrimonial home to the resident parent was common, particularly when there was more contact between the non-resident parent and their children.
- Among resident parents and non-resident parents, pension sharing was low (10 per cent) and, when it happened, it was more likely to be the non-resident parent's pension that was shared.
- Resident parents were more likely than non-resident parents to get more of any savings and assets. However, they were also more likely to report taking on more of the debts.

**In equal time care cases, asset splits were much more equal, but where there was a difference, it was usually in favour of the mother:**

- In terms of overall assets, the percentage split between parents was more equal than in cases where there was not equal time care, with no significant differences in what mothers and fathers received overall.
- Transfer of ownership of the home was common, but in cases with equal time care, the home was equally likely to go to the father as to the mother.
- Levels of pension sharing were higher in equal care cases (19 per cent) and again, more likely to be fathers' pensions that were shared.
- Amongst parents with equal time care, there were more 50:50 splits of savings and debts - although where this was not the case, fathers were more likely to take on more of the debt.

## Introduction

In this section, we describe what happened to the divisible financial assets from the marriage, and explore the extent to which this is associated with their child arrangements, both in terms of where their children were living at the point of divorce and how often children saw their non-resident parent.

In previous sections, where we have discussed parents' motivations behind any financial settlement, and the routes they took to secure an arrangement, we have presented the views and experiences of both resident and non-resident parents, as well as parents with equal time care. We have acknowledged and highlighted in the text the fact that, to some degree, the survey overrepresents non-resident parents who have more frequent contact with their children, and are somewhat better off.

In this section – which is presenting arguably more objective data which could be collected from either party – we have chosen to take the report of resident parents to understand the arrangements made between resident and non-resident parents, on the basis that we are more confident that they represent better the parent population without equal time care. We look at the assets received by resident parents and, by deduction, work out what the non-resident parents received, as well as reporting on the asset split between mothers and fathers in equal time care arrangements.

## Overall split of the assets

Where parents were able to tell us the value of each of their assets (the matrimonial home, any pension pots, savings and other assets, minus the value of any debts) as well as the proportion of each of those assets that they received when they divorced, we calculated the percentage that each divorcee received.<sup>92</sup> Overall, we know from the *Fair Shares* report, that the overall percentage and monetary share of the total assets between the parties did not differ between divorcees who were parents and those who were not.<sup>93</sup> The question here is whether this was the case when we compare the percentages received according to the child arrangements that parents made.

First, considering situations where one parent had main care of the children, Figure 13 shows the percentage of the total assets received by resident parents – overall, and then broken down into those with greater or fewer assets to divide. Overall, two thirds (63 per cent) of resident parents received at least 50 per cent of the value of the total assets, suggesting that having main care of the children is associated with receiving a greater share of the assets.<sup>94</sup>

However, the pattern was different depending on the value of the assets available to divide,<sup>95</sup> although we should note the modest sample sizes mean that we should treat these findings with caution. It was also different depending on whether this included the matrimonial home. When the level of assets was low, under £100,000, resident parents were more likely to receive at least half of the value of the assets (76 per cent had done so). For these families, 50:50 splits were rare (only 14 per cent of resident parents reported receiving between 40 and 59 per cent of the total value). A key driver of this appears to be the tenure of the matrimonial home, with eight in ten (79 per cent) resident parents who were renting receiving at least half of the total value of the assets compared to 57 per cent of resident parent homeowners.<sup>96</sup>

Although approximate 50:50 splits were much more common in cases where there were more assets to divide (£500,000 or more), with four in ten (39 per cent) resident parents receiving between 40 and 59 per cent of the assets in these cases, it was still the case that two thirds (68 per cent) of resident parents received at least half of the value. However, it

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<sup>92</sup> See Chapter 8 of the main *Fair Shares* report (n 1 above) for a description of how this was calculated.

<sup>93</sup> See p.289 of the main *Fair Shares* report (n 1 above).

<sup>94</sup> The percentage of resident parents receiving at least half of the assets did not vary significantly by the frequency of contact between the non-resident parent and their children.

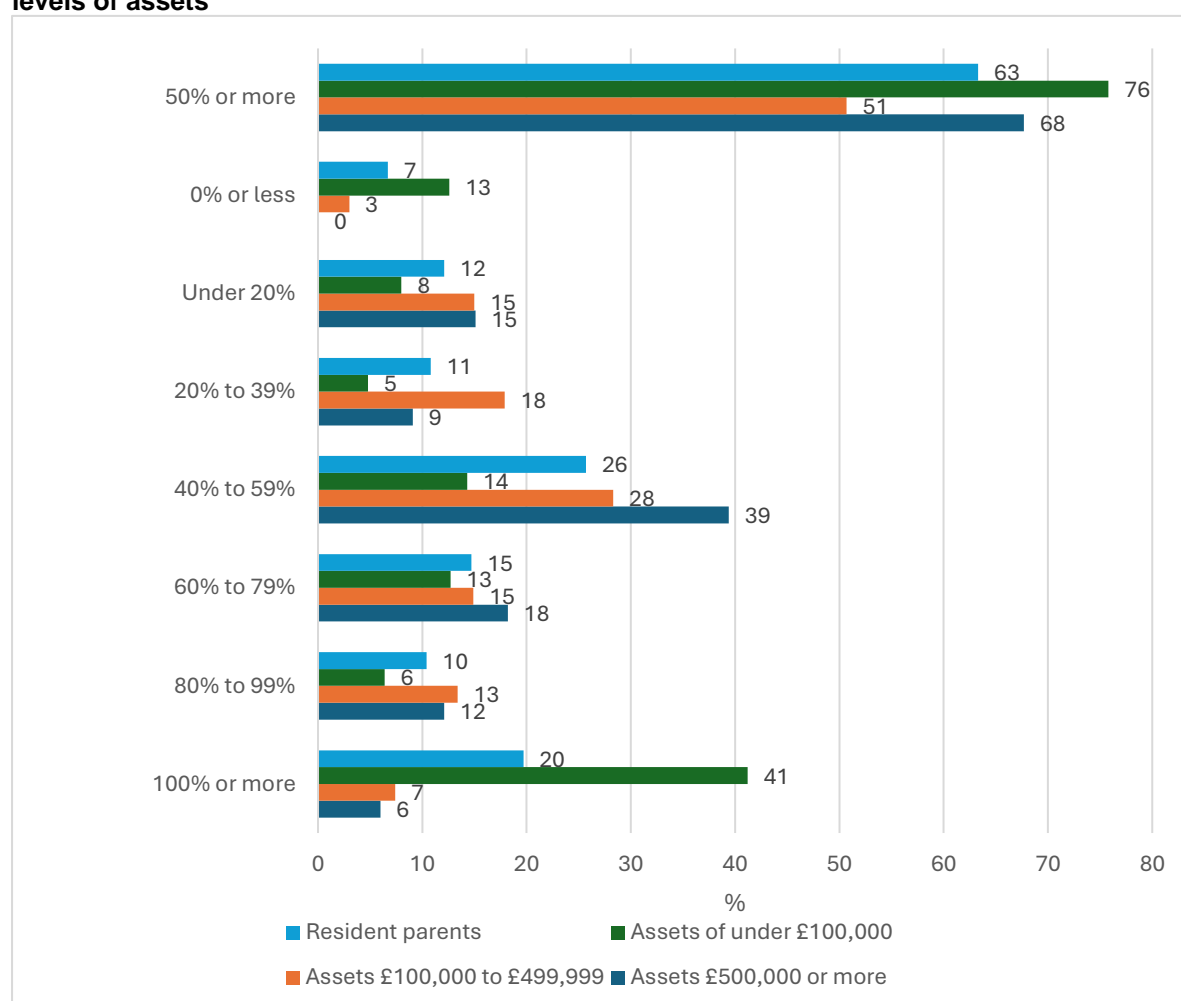
<sup>95</sup> P-value <0.001.

<sup>96</sup> P-value 0.004.



was among parents in the middle band where resident parents appear least likely (51 per cent) to receive at least half of the assets. The qualitative data provides a partial explanation for this difference, with case-specific reasons provided by resident parents for the split including wanting to move on with their lives rather than pursuing a higher proportion of the assets, as well as bargaining power issues associated with domestic abuse. However, one theme that did emerge was pension offsetting, with resident parents in this asset category group agreeing to receive more/all of the equity in the former matrimonial home in exchange for the non-resident parent keeping their pension. This could be due to the costs, time and additional complications associated with pursuing a pension sharing agreement. Offsetting pensions may be a more convenient option for this group of parents compared with the higher asset group who may be more able to deal with the costs associated with pension sharing.

**Figure 13: Percentage of total assets received by resident parents, overall and by different levels of assets**



Base: resident parents (311); with total assets under £100,000 (89); between £100,000 and £499,999 (149); £500,000 or more (73) where a calculation could be made

The qualitative data also highlighted that the reasons the resident parent received a greater share of the assets were often linked to their ongoing child care responsibilities and the associated housing need as well as having made larger financial contributions to the matrimonial home, other property or other capital assets. In the following example where there were mid-level assets, it was decided that the wife would keep the house (the parties'

main asset) as it would eventually go to their child, and her own pension. As well as reflecting the needs of their child, the wife and the husband had different motivations behind the unequal division of the value of the assets. In the wife's case, she wanted to have her financial contributions recognised and from the husband's perspective, he seemingly did not want to have ongoing responsibility for paying the mortgage:

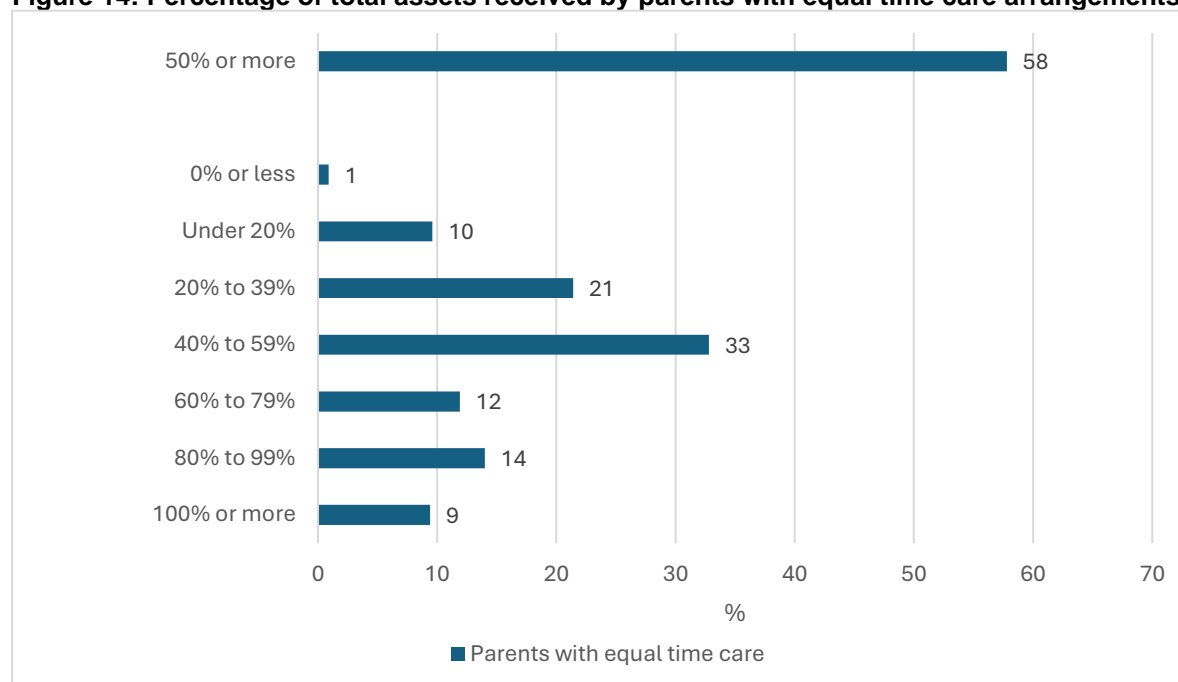
Interviewee: I owned a house from when I was 21 so he knew about the money that went into the house. He wasn't very good with money so I think he was probably more happy with the fact that his name was off the mortgage in the end. ... I've got a [child] so it was his theory that that was [their] house and it has continued that way. I am actually moving house tomorrow as I have bought another house. I have got quite a big equity and it is always, to me, [child's name]. That is [theirs] and that is from a bit of me and from a bit of [their] dad although it is all in my name. Does that make sense? [...]

Interviewer: So his view was that the house should stay with you and he shouldn't get any of the equity because he wanted it in the end to go to his [child]?

Interviewee: Exactly.  
(Wife – resident parent)

Among those with equal time care, more parents had divided their assets more closely to 50:50 (Figure 14).<sup>97</sup> A third (33 per cent) of these parents said that the division was between 40 and 59 per cent, and six in ten (58 per cent) said that they themselves had received at least half of the total value of the assets. There were no significant differences in the percentages received by mothers and fathers.

**Figure 14: Percentage of total assets received by parents with equal time care arrangements**



Base: parents with equal time care where a calculation could be made (127)

<sup>97</sup> The percentage shares received were significantly different to those reported by resident parents (p-value 0.003).

For equal time care parents within the qualitative sample who had divided their assets more closely to 50:50, their reasons reflected both parties' respective contributions during the relationship, and a view that they did not want to argue for a slightly higher percentage. This was reflected in the following approach by one equal time parent:

I was grateful that when I'm working the children were with their father and not in childcare, so I didn't I didn't think it was fair to penalise him, based on decision we came to together, that he would stay at home and I would go out to work as I was earning more. So and the 50:50 was just .... I just couldn't be bothered to argue. I just really - I just wasn't prepared to argue over money. (Wife – equal time care)

In another equal time care case, the house was transferred to the husband and he paid his wife just over 50 per cent of the equity. There were additional assets in this case, but it was decided that she would keep some inheritance money, but the husband would keep his pension as they considered that these were worth roughly the same – although in terms of the latter's value, this was not investigated so a clear understanding of its worth was not apparent to either party.

## The matrimonial home

As we reported in Section 2, eight in ten (84 per cent) of parents with an equal time care arrangement and two thirds (66 per cent) of families where one parent had the main care had owned their matrimonial home. The most common decision among all these families was to transfer ownership of the home to one party (reported by 47 per cent of those with equal time care and 46 per cent of resident parents<sup>98</sup>).

Among families where one parent had the main care, transfer of ownership was most commonly to the resident parent (36 per cent) rather than to the non-resident parent (10 per cent) (Figure 15). Where the home was transferred to the resident parent, in three quarters (74 per cent) of cases, the non-resident parent received a compensatory payment.<sup>99</sup> In cases of equal time care, the transfer was equally likely to be to the father (24 per cent) as to the mother (24 per cent), presumably because there was more sharing of the responsibility for the children.<sup>100</sup> The vast majority (91 per cent) of these cases involved a compensatory payment to the other parent, regardless of their gender.<sup>101</sup>

The qualitative data provided some reasons for transferring ownership of the home when one parent had the main care of the children. This included, the house being needed for the child(ren); any equity in the property going to children eventually through a future

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<sup>98</sup> The percentages transferring ownership and selling are similar to parents of older, non-dependent children and older homeowners without children. However, among younger homeowners without children, divorcees were equally likely to sell as transfer ownership (see p.274 of the main *Fair Shares* report, n 1 above).

<sup>99</sup> There are insufficient cases of a transfer of ownership to the non-resident parent to report on compensatory payments in these situations.

<sup>100</sup> This was also the case for parents with older, non-dependent children and divorcees without children.

<sup>101</sup> The numbers of equal time care homeowners transferring ownership are too small to present in a Figure.

inheritance; the non-resident parent not wanting any ongoing responsibility for the house (i.e. not wanting their name on the mortgage) as well as prioritising the child/ren's welfare in a more general sense, as explained by this parent:

My biggest worry was I had the two children and I was living in the married home so for me it was securing that home because it was for the children [...] their wellbeing, their welfare, they went to the local school there. That was their home and I just felt [...] I like to think I have an understanding of the impact of not just the divorce on the children's mental health and wellbeing and emotional wellbeing. I know it's important whilst that is happening to continue offering them that stability that structure, that familiarness and their home was what was familiar. I remember my daughter being young at the time and she'd gone and seen her dad and she'd come home and said, 'Oh daddy said that mummy said that we might have to move,' and she was getting really distressed about just the word move so that is what it was, it was literally about the children and their welfare and wellbeing. (Wife – resident parent)

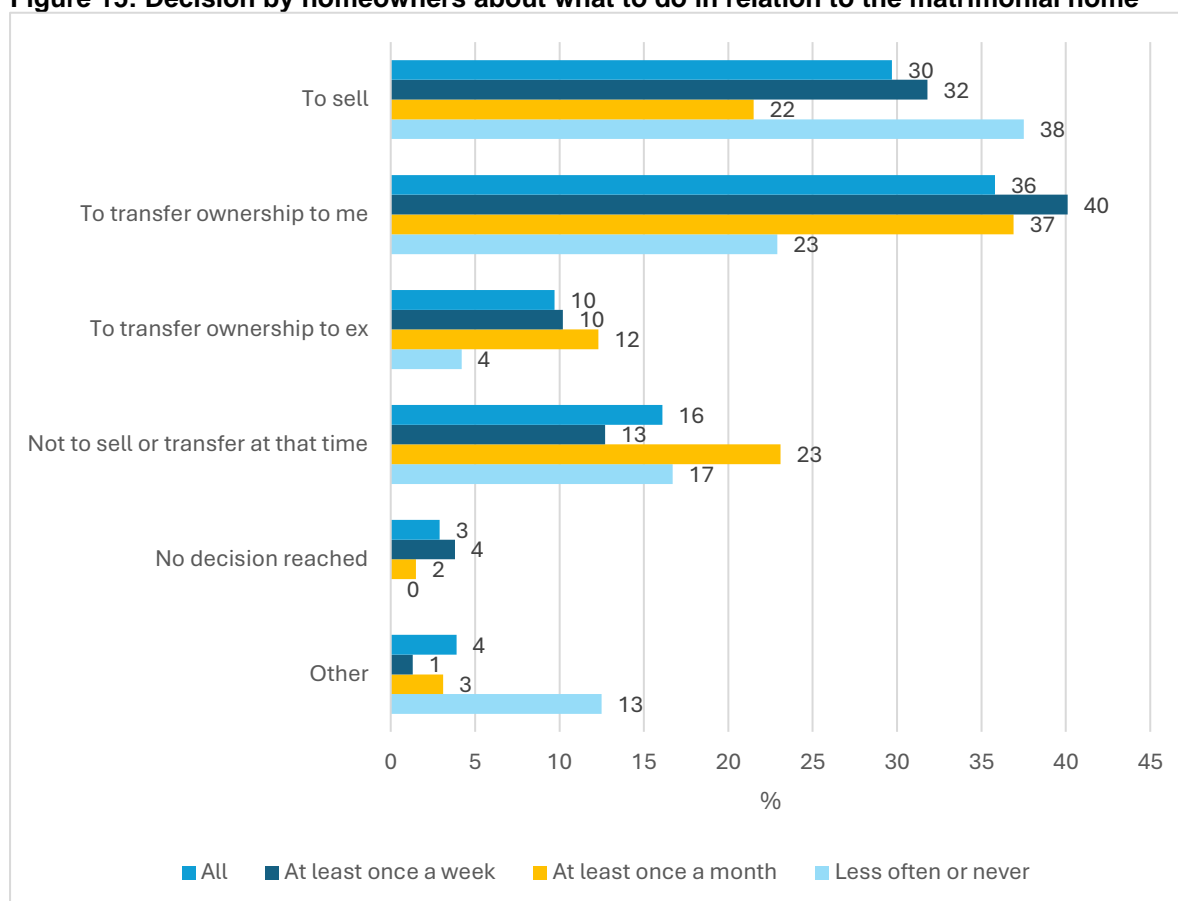
In cases where the decision to transfer ownership was to the non-resident parent, reasons for this included relative financial contributions to the property, renovations which had been undertaken on it, as well as other assets which compensated for the transfer.

The decision to transfer ownership, particularly to the resident parent was more common when the children had more contact with their non-resident parent (Figure 15.<sup>102</sup> In cases where the non-resident parent was in weekly contact with their children, four in ten (40 per cent) homes were transferred to the resident parent, compared to a quarter (23 per cent) of homes when the non-resident parent was in little or no contact. In these situations, it had been more likely that there had been a decision to sell the home (38 per cent compared to 32 per cent of cases with weekly contact).

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<sup>102</sup> P-value comparing whether to sell or transfer 0.038.

**Figure 15: Decision by homeowners about what to do in relation to the matrimonial home**



Base: resident parents (455); where non-resident parents had at least weekly contact (228); at least monthly contact (125); less contact or never (89) who were homeowners at point of divorce

Transfer of the matrimonial home was also common among parents who were renting. By the time of the divorce, according to the reports of resident parents, around half (55 per cent) of the tenancies were still in existence, with resident parents more than twice as likely as non-resident parents (39 per cent compared to 14 per cent) to be living there.<sup>103</sup>

## Pensions

Overall, pension sharing agreements were less common among parents with dependent children than among older divorcees with non-dependent or no children.<sup>104</sup> However, among parents, equal time care cases were more likely to involve a pension sharing agreement than cases where one parent had the main care of the children (19 per cent compared to 10 per cent reported by resident parents).<sup>105</sup>

In equal time care cases, fathers were much more likely than mothers to have shared their pension (20 per cent of those not drawing their pension compared to five per cent of mothers).<sup>106</sup>

<sup>103</sup> In a further one per cent of cases, both parents were still living there. The numbers of renters with equal time care are too small to report.

<sup>104</sup> See p.278-281 of the main *Fair Shares* report (n 1 above).

<sup>105</sup> Significantly more likely than resident parents p-value 0.021.

<sup>106</sup> P-value 0.005. The sample sizes are too small to look at percentage shares.

Among families where one parent had main care of the children, sharing arrangements were more commonly made in relation to non-resident parents' pensions (12 per cent) than resident parents' pensions (three per cent). Where the non-resident parent's pension was divided, three in ten (28 per cent) of resident parents received half of the non-resident parents' pension pot, with most others (53 per cent) receiving less than half.<sup>107</sup>

## Savings, other assets and debts

Overall, among parents with dependent children, mothers tended to receive a greater proportion of any savings and other assets than fathers.<sup>108</sup> However, when we compare families where one parent had main care of the children and families with equal time care, it appears that 50:50 sharing is more common in cases of equal time care.

Among those who had decided what should happen to any savings and assets,<sup>109</sup> only one in five (18 per cent) resident parents reported that they had been shared equally. Instead, resident parents were more likely than non-resident parents to receive the majority share. In addition to those reporting a 50:50 split, half (47 per cent) of resident parents reported getting more than half the savings or assets. However, resident parents also reported taking on the majority share of any debts. Among those who had decided on the division,<sup>110</sup> half (52 per cent) said that they had taken on more than half, and a further 15 per cent said that they had been split 50:50.

50:50 sharing of savings, other assets and debts were much more common among parents with equal time care arrangements than among families where one parent had main care of the children. Among those with equal time care who had decided how to split things,<sup>111</sup> four in ten (43 per cent) had split their savings and other assets equally, and a third (37 per cent) had done so in relation to their debts. The numbers are relatively small to compare the split of savings, assets and debts by mothers and fathers. However, among parents with equal time care arrangements, fathers were more likely to have taken on the majority of any debts (58 per cent compared to 19 per cent of mothers).<sup>112</sup>

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<sup>107</sup> The number of pension sharing agreements for resident parent pensions are too small to report on the percentage split.

<sup>108</sup> This was similarly the case among parents with older non-dependent children and older divorcees without children (with a more equal division among younger divorcees without children), see p.283-284 of the main report.

<sup>109</sup> Two thirds (67 per cent) of resident parents.

<sup>110</sup> 69 per cent.

<sup>111</sup> 71 per cent in the case of savings or assets and 80 per cent in the case of debts.

<sup>112</sup> P-value <0.001.

## 7. Who receives ongoing financial support in the form of child maintenance, and how does this relate to wider financial arrangements?

### Key findings

**In cases where one parent had main care of the children, child maintenance arrangements were more likely to be in place where non-resident parents had contact with their child, where families had a higher level of household income during the marriage, where the resident parent was working part-time at the point of divorce, and in families where the youngest child was between the ages of five to nine.**

- At the time of their divorce, only six in ten (62 per cent) resident parents had a child maintenance arrangement in place. Where non-resident parents had contact with their child, two thirds of these families had a child maintenance arrangement. But in cases where there was no contact, this figure dropped to only three in ten (29 per cent).
- Those with higher household incomes during the marriage were more likely than others to have a child maintenance arrangement (e.g. 77 per cent of those in the higher income quintile compared to 60 per cent of the lowest income quintile).
- Resident parents who were working part time at the point of divorce were more likely (74 per cent) than full-time earners (51 per cent) to have a child maintenance arrangement.
- Where the youngest child was aged between five and nine at the point of the divorce, three quarters (77 per cent) of families had a child maintenance arrangement. However, once the youngest child was aged 15 or more, fewer than half (43 per cent) of families had a child maintenance arrangement.

**Where parents had equal time care, four in ten (41 per cent) parents reported having a child maintenance arrangement, with fathers much more likely than mothers (54 per cent compared to 16 per cent) to report this.**

**Both for cases where one parent had main care of the children and where there was an equal time care arrangement, those who had reached a financial arrangement (on all or part of their finances) were also more likely to have a child maintenance arrangement.**

- Among resident parents who had reached a financial arrangement, those who had financial orders were also more likely to have a child arrangement.
- Where a resident parent had involved a lawyer when trying to reach a financial arrangement, they were more likely than those who had not involved one to have a child maintenance arrangement (76 per cent compared to 54 per cent).

**Resident parents who received the smallest proportion of the total assets were the least likely parents to receive child maintenance.**

- Resident parents who got a minority share (below 25 per cent) of the total assets were also the least likely parents to receive ongoing financial support in the form of child maintenance. Only half (47 per cent) of these parents had a child maintenance arrangement compared to, for instance, three quarters (76 per cent) of parents who got between a quarter and a half (26 per cent to 50 per cent) of the assets.

## Introduction

Parents are encouraged to reach family based child maintenance arrangements between themselves after separation. These are private, informal agreements between the parents as to the amount and duration of maintenance, as well as how it is to be paid – and enforced. If they are unable to reach an agreement, the statutory child support system is available through the Child Maintenance Service (CMS) to calculate and arrange child maintenance. To assist parents in coming to a regular child maintenance payment figure, there is an online child maintenance calculator<sup>113</sup> to determine how much should be paid based on the formula contained in the Child Support Act 1991.<sup>114</sup> In deciding the provision that is to be made for their children, parents can agree this amount, or use it as a basis for negotiation, or ignore it entirely. The courts retain a residual jurisdiction to make orders relating to the ongoing financial support of children in particular, prescribed, circumstances,<sup>115</sup> or where the agreed amount of child maintenance is to be made into a court order.

In Chapter 8 of the main Fair Shares report, we provided a detailed account of whether or not parents had child maintenance or spousal maintenance arrangements at the time of the survey and, if so, the types of arrangements they had and how well they were working. We also reported on the reasons that parents gave for not having a child maintenance arrangement. Rather than replicate those findings, here, and given the focus of this paper on the interaction between child arrangements and financial settlements, we focus instead on child maintenance arrangements at the time of the divorce.<sup>116</sup> Our interest is in the extent to which these appear to be related to any wider financial arrangements parents had made or were making at divorce, and to the routes that they had taken to reach these. Mirroring Section 6 on the division of the financial assets, for families where one parent had main care of the children, we use the reports of resident parents.<sup>117</sup>

## Child maintenance

At the time of their divorce, only six in ten (62 per cent) families where one parent was the main carer had a child maintenance arrangement in place.<sup>118</sup> Where non-resident parents had contact with their child, two thirds of families had a child maintenance arrangement. But

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<sup>113</sup> See <https://www.gov.uk/calculate-child-maintenance>.

<sup>114</sup> Child Support Act 1991, Schedule 1.

<sup>115</sup> Child Support Act 1991, s 8.

<sup>116</sup> While we recognise that some arrangements may not have been made until after the divorce, this is the closest measure we have to the point of divorce. The proportion of parents with child arrangements had dropped by the time of the survey. This is in line with other evidence about depleting relationships over time.

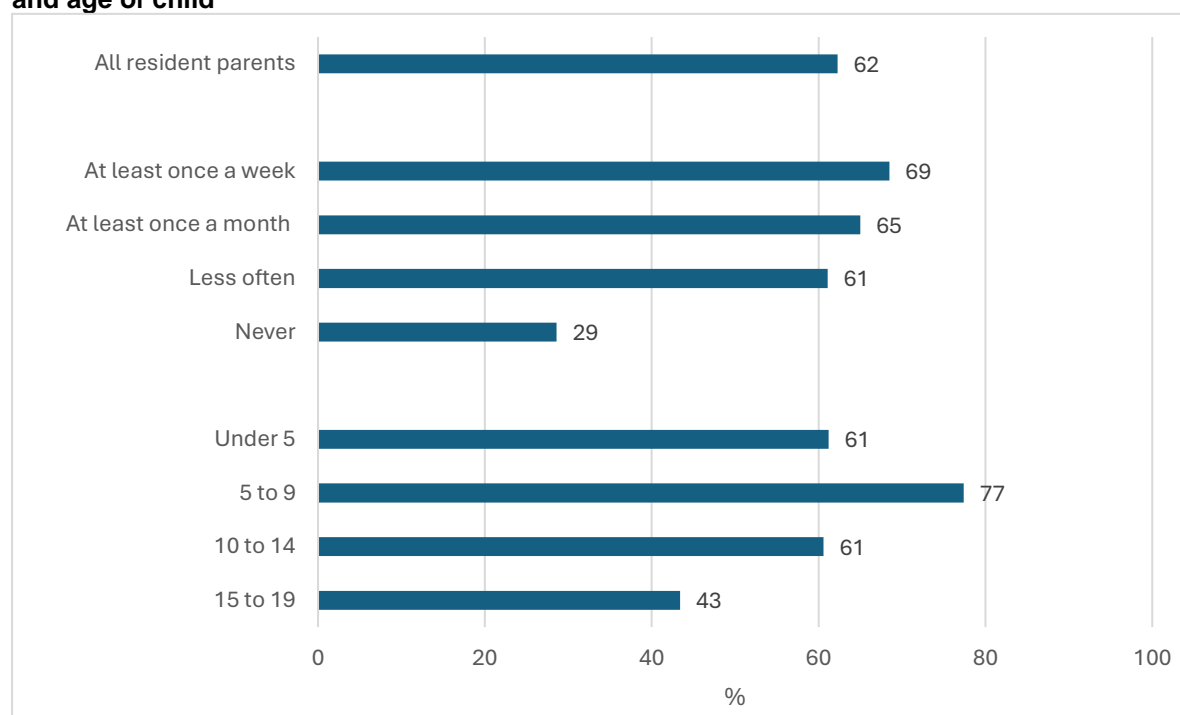
<sup>117</sup> As we reported in the main *Fair Shares* report (n 1 above), resident parents were less likely than non-resident parents to report having a child maintenance arrangement in place, and that those arrangements were working well. While this may partly reflect the differing perceptions of resident and non-resident parents about the financial contributions that the non-resident parent is paying, it likely also reflects the overrepresentation of non-resident parents with more frequent contact with their children, given the known correlation between contact and child maintenance payments.

<sup>118</sup> It is important to remember that the data we have about child arrangements at the time of the survey suggest that only six in ten (60 per cent) of these arrangements are fully compliant, and in one in ten (eight per cent) cases, no maintenance was ever paid.



in cases where there was no contact, this figure dropped to only three in ten (29 per cent) (Figure 16).<sup>119</sup>

**Figure 16: Whether there a child maintenance arrangement at the time of divorce – by contact and age of child**



Base: resident parents (630); where at least weekly contact (286); where at least monthly contact (177); where contact less often (77); where no contact (71); youngest child under five (167); five to nine (180); 10 to 14 (169); 15 to 19 (110)

The qualitative sample provides some reasons as to why, in those cases where there was no contact, there was also no child maintenance. This included ongoing issues over child contact including the threat of court over the child arrangements from the non-resident parent and associated cancellation of the direct debit providing the regular payment, to another case where there was no contact (due to the non-resident parent living abroad) and the non-resident parent being unable to get work.

In another case, the resident parent explained that trying to get an arrangement for child maintenance would be too much hassle given the non-resident parent's unreliability. The wife also felt that her ex-husband could not separate out child maintenance payments from financial support for her, 'he feels as if, if he's giving money, it's actually helping me not helping our son.' (Wife – resident parent), whilst in another, there was no formal arrangement as such, but the parties did agree to split the childcare costs:

[I]t turns out that the amount of money that he would be due to give me was about the same amount of money that he pays for his half of the childcare bill, so he was basically saying like you can either... I can either give you all the money or I can just keep paying this, then you don't have to, and then we've just kind of stuck to that really. (Wife – resident parent)

<sup>119</sup> P-value <0.001.

Where the youngest child was aged between five and nine at the point of the divorce, three quarters (77 per cent) of families had a child maintenance arrangement.<sup>120</sup> However, once the youngest child was aged 15 or more, fewer than half (43 per cent) of families had a child maintenance arrangement.<sup>121</sup> The interview data provides some insight into the possible reasons for this. In particular, an emerging finding was that financial payments could be more informal and ad hoc when children were older. In one case, although there was no child support arrangement for their (older) children, the non-resident parent did pay for the odd item and would also cover some occasional expenses:

Yeah, and if they've got a birthday party and they're going bowling or something, I'll say 'well I need to put £10 in the car'. So, it does add up but it's small amounts and it's not very often. ... They're not babies anymore, are they, so they've all got their own thoughts and opinions about where they want to go and they're in football at the weekends so that's tricky going from mine to his and blah, blah, blah. They do stay over occasionally and then, yeah, he will obviously pay for whatever they do. I expect they get takeaways and stuff like that. (Wife – resident parent)

A similar reason was given by another interviewee. Although he did not have a formal child maintenance arrangement, he nevertheless outlined the informal ways in which he contributed financially to his older children's upbringing:

'I have just always paid for the school clubs and the uniforms. One does tennis and one does athletics and I pay for those sorts of things.' (Husband - non-resident parent)

However, for another husband where there was no agreement for child maintenance in place as they shared care, he suggested that children become more expensive as they get older, which meant he had become 'a lot harsher' with how he dealt with financial aspects in relation to the children due to his other financial commitments and pressures:

I've become a lot harsher with how I will deal with stuff and what I'm happy to do... not out of wanting to be difficult but out of principle that as our son gets older the things he wants are going to get more expensive, the expenses are going to be more expensive, you need to make sure that any changes in contribution or increases are reasonable. That's my principle with it, because everything is expensive. I have another child, my ex-wife has another child with her partner, it's about balance, it's about making sure things remain balanced. (Husband – equal time care)

In general, there was a pattern between financial security and having a child maintenance arrangement. This relates both to how well-off families were during the marriage, and to resident parents' immediate capacity to earn for themselves. On the first of those points,

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<sup>120</sup> Note, this is the age group where there was also most contact between the child and non-resident parent.

<sup>121</sup> P-value <0.001 . There were no significant differences in receipt between resident fathers and resident mothers.

those with higher levels of household income during the marriage were more likely than others to have a child maintenance arrangement (e.g. 77 per cent of those with monthly net incomes of £5,000 or more compared to 60 per cent of those with incomes of under £1,000 each month).<sup>122</sup> Likewise, those who owned the matrimonial home were more likely than renters (67 per cent compared to 54 per cent) to have an arrangement.<sup>123</sup> But in terms of resident parents' ability to be financially self-sufficient after divorce, it was those who were working part time (fewer than 30 hours) at the point of divorce who were more likely (74 per cent) than full-time earners (51 per cent) to have a child maintenance arrangement.<sup>124</sup>

However, the picture is not linear. For instance, those who were not working at all were less likely (59 per cent) than part-time workers to have an agreement. The qualitative data is rather limited on why this might be the case. However, for one interviewee, the resident parent who was not doing any paid work at the time of the divorce explained that the non-resident parent did not agree to a child maintenance arrangement due to the fact that the resident parent was in receipt of a range of benefits. In the non-resident parent's view, this income meant that she did not need the additional child maintenance:

He told me I could have the house, no pension and no child maintenance. [...] I got the child benefit. I got my income support. I got child tax credits. I got everything for them. So, while I got everything for them, I had money coming in.  
(Wife – resident parent)

And when we look across overall assets (the value of any equity in the home, pensions, etc.), there is no clear significant pattern between the level of assets that parents had and having a child maintenance arrangement.

As you would expect, fewer parents with equal time care arrangements had child maintenance arrangements when they divorced. Among the four in ten (41 per cent) who did, fathers were much more likely than mothers (54 per cent compared to 16 per cent) to report having an arrangement, with fathers mostly reporting paying rather than receiving child maintenance.<sup>125</sup> Half (48 per cent) of fathers with equal time care said there was an arrangement for them to pay the other parent, while 16 per cent of mothers with equal time care reported having an arrangement to receive it. As noted earlier in the report, this finding provides further evidence to support our suggestion that fathers who reported that they have an equal time care arrangement are using the term more loosely than mothers.

## Making arrangements

As we reported in the main *Fair Shares* report, sorting out child maintenance arrangements was something that happened in addition to, rather than as part of, the divorce process.<sup>126</sup>

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<sup>122</sup> P-value 0.010.

<sup>123</sup> P-value 0.018.

<sup>124</sup> P-value 0.003.

<sup>125</sup> P-value <0.001.

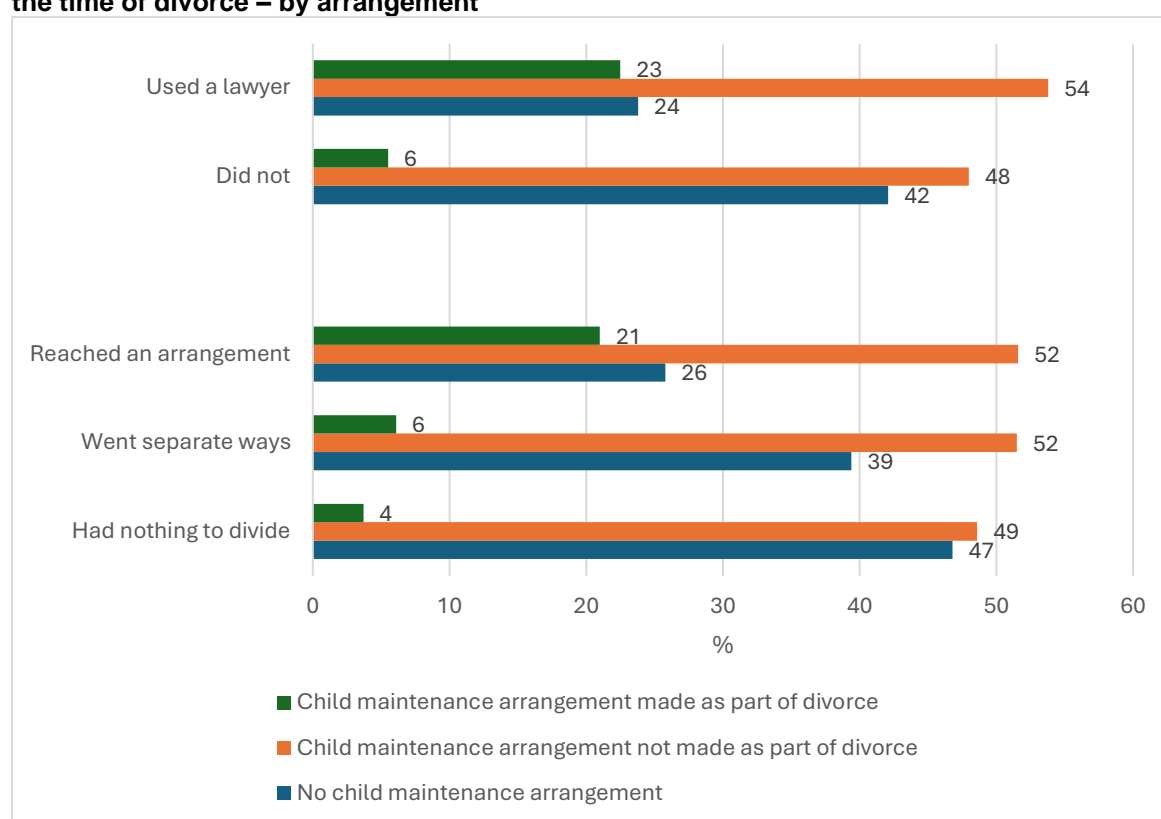
<sup>126</sup> See p.241 of the *Fair Shares* report (n 1 above).

Only one in five (19 per cent<sup>127</sup>) child maintenance arrangements in place at the time of divorce had been made as part of a wider financial arrangement.

Among resident parents, those who had involved a lawyer when trying to reach a financial arrangement were more likely than those who had not to have a child maintenance arrangement (76 per cent compared to 54 per cent)<sup>128</sup> (Figure 17).<sup>129</sup>

Likewise, those who reported having reached an arrangement (on all or part of their finances) were more likely (73 per cent) than those who had 'gone their separate ways' (58 per cent) or felt they had nothing to divide (52 per cent) to have had a child maintenance arrangement (Figure 17).<sup>130</sup>

**Figure 17: Whether used a lawyer and whether there was a child maintenance arrangement at the time of divorce – by arrangement**



Base: resident parents who did (357) and did not (273) use lawyer; resident parents who reached an arrangement (330); went separate ways (94); had nothing to divide (145)

Among those with a financial arrangement, those who had a financial order were more likely to have a child arrangement than those who did not (78 per cent compared to 68 per cent).<sup>131</sup> However, there were no significant differences between those who had negotiated this themselves (77 per cent) or via lawyers (79 per cent).

<sup>127</sup> Among both parents with and without equal time care arrangements. Note, the percentage is slightly different to that cited in the main report, which included the reports of non-resident parents.

<sup>128</sup> P-value <0.001.

<sup>129</sup> Where figures in this paragraph and below are slightly different to those in the Figure, this is due to rounding to the nearest whole percentage.

<sup>130</sup> P-value 0.001.

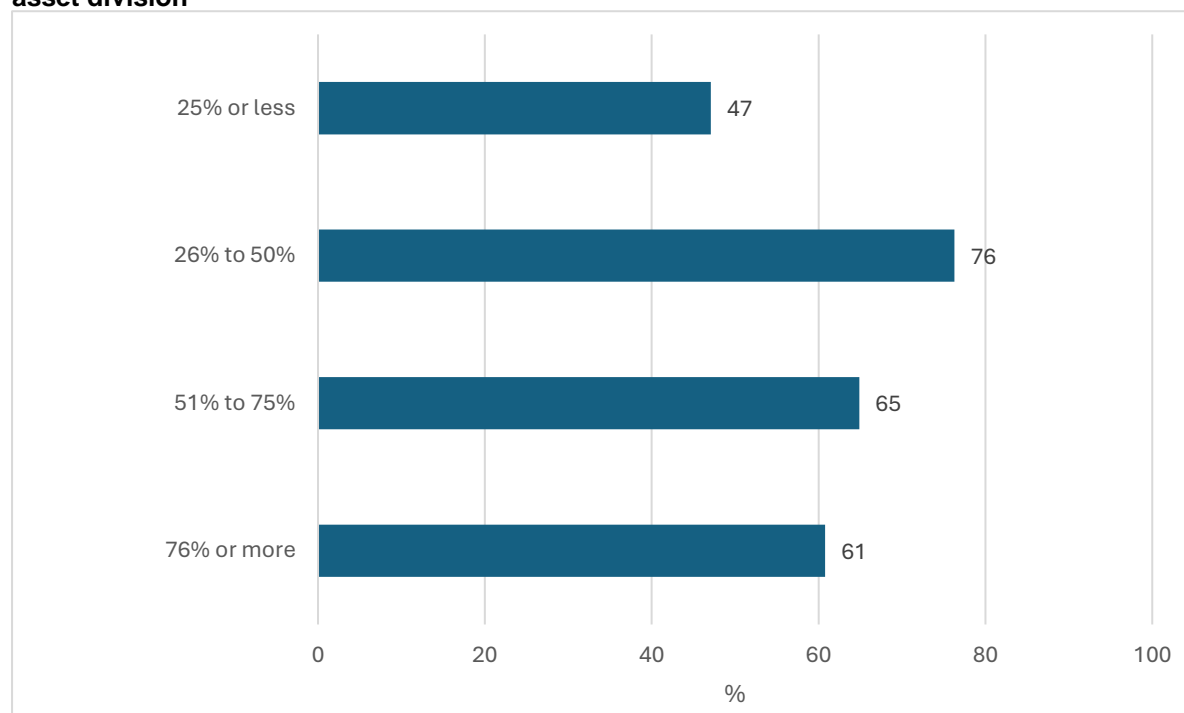
<sup>131</sup> P-value 0.034.

Among parents with equal time care, those who had reached a financial arrangement on their assets were more likely than other parents to also have a child arrangement in place (51 per cent compared to 27 per cent).<sup>132</sup> However, there were no significant differences between those who had or had not used lawyers in relation to their finances (45 per cent compared to 39 per cent), or between those who did or did not have their arrangement made into a financial order (56 per cent compared to 46 per cent).

## Relationship between child maintenance and the division of assets

Figure 18 shows, for families where one parent had main care of the children, the proportion of resident parents with a child maintenance arrangement, according to the share of the assets they received and whether the home was sold or transferred.

**Figure 18: Whether there was a child maintenance arrangement at the time of divorce – by asset division**



Base: resident parents who received 25% or less (62); 26 to 50 per cent (79); 51 to 75 per cent (83); 76 per cent or more (87)

While the picture is not linear, it appears that resident parents who only get a minority share (below 25 per cent) of the value of the assets are also the least likely parents to receive ongoing financial support in the form of child maintenance. Only half (47 per cent) of these parents had a child maintenance arrangement compared to, for instance, three quarters (76 per cent) of parents who got between a quarter and a half (26 per cent to 50 per cent) of the assets. Although Figure 18 suggests that those who received more of the value of the assets were less likely than those who received less to receive child maintenance, the differences between parents in the upper three quartiles are not statistically significant. Unfortunately, there is very little in the qualitative data which provides an explanation for these findings

<sup>132</sup> P-value 0.014.

beyond the general reasons outlined in the main report as to why non-resident parents did not pay child maintenance, although the lower payment of child maintenance in the group receiving a higher level of assets may potentially be because a more generous share of the assets is seen as an alternative to child maintenance payments. Both the survey and interview data identify affordability and lack of willingness to pay as the two key reasons as to why there was no child maintenance arrangement in place.

## 8. Conclusions

### Differing perceptions between mothers and fathers

The study found some elements of difference between mothers and fathers in terms of their reporting of the parenting arrangements that they had. There were differences in the perceptions of mothers and fathers about what constituted their children living 'only or mainly' with one parent, with fathers far more likely than mothers to say that their children stayed with them half the time, and those who identified as non-resident parents often citing more frequent contact with their children. As we noted earlier in the paper, these differences in reporting may be due to sensitivities over how children's care is shared, with non-resident parents more likely to augment the proportion of time they have with their children. This of course has implications for how the data is to be interpreted.

### A wealthier background for equal time care arrangement parents

Parents with equal time care were wealthier than other parents in general, coming from marriages where the average household income was higher, having, on average, higher levels of assets to divide on divorce, and mothers having been more likely to be working full-time at the point of separation. Parents who became resident parents at the point of divorce were much more likely to have been working part-time and have lower earnings during the marriage than those who became non-resident parents or parents with equal time care. While, as we would expect, the majority of resident parents were mothers, resident fathers appear more likely to have had a greater caring role during the marriage than other fathers, being much less likely than other fathers to have been working full-time at the point of separation.

These background differences are an important consideration when interpreting our findings on the processes by which financial arrangements were reached and parents' financial outcomes.

### Putting the child first

Putting their children's needs first was a priority for many parents both when considering what they wanted from a financial arrangement and when making any arrangement.

All parents, irrespective of child arrangement type, commonly cited that what they wanted from a financial arrangement was stability for their children, particularly emotional stability, educational stability (schooling), social stability (friends and hobbies) and housing stability. Housing stability was a particularly important motivation for parents who had greater day-to-day responsibility for their children, with a quarter of resident parents citing this, compared with one in ten non-resident parents. Furthermore, among those who had made a financial arrangement, an important factor for both resident and non-resident parents had been where the children were living. Other considerations also came into the equation at this stage, including the practicalities of what parents could afford and the importance of a clean break.

The fact that many parents focused so strongly on placing their children's needs at the centre of their decision-making is an important finding given the current focus of the law and

the first consideration being the welfare of any children of the family.<sup>133</sup> The parents in our study, within the context of often constrained financial circumstances at the point of divorce, limited legal advice, and negotiation of their financial arrangements outside of the formal legal sphere, appear to be making decisions which accord with this aspect of the current legal framework. Therefore, in light of the Law Commission's Scoping Review which concludes that the current law requires reform,<sup>134</sup> we suggest that the prioritisation of any children of the family is appropriate, not problematic, and accords with current practice by many parents both inside and outside of the formal financial remedies processes.<sup>135</sup> Furthermore, with one of the key themes emerging from the data being the desire of many parents to place their children's needs at the heart of their financial arrangement on divorce, a move away from this first consideration in any possible future law reform, would, we suggest, be difficult to justify in light of the data presented here and would be a step in the wrong direction.

## Equal time care cases: a more informal process and a tendency towards more equal financial outcomes

Whilst the findings presented in this report provide quite a clear picture of the equal time care group, it is important to flag the wealthier background from which equal time care parents originate, and to note the greater financial independence of mothers who ended up with equal time care, being very likely to have been working full-time at the point of separation. Furthermore, the parents with equal time care appear to have a more amicable relationship in the sense of being more likely to negotiate their financial arrangement themselves. A high proportion of those with equal time care arrangements had negotiated a financial settlement themselves, and compared with other parents, they were less likely to have involved lawyers (and, consequently, had spent less on legal costs on average than resident parents). Whilst, on average, parents with equal time care had better relations with their ex-spouse than other parents, that was not always the case. Despite having navigated an equal time care arrangement, substantial minorities of equal care time parents reported that they had had problems communicating with their ex-spouse. This included three in ten of those who said that they had used lawyers identifying that this was because they could not discuss things well with their ex-spouse. But, overall, equal time care parents who had reached a financial arrangement were more likely than other parents to feel that both parties had had an equal say in what was decided.

This high proportion of equal time parents who negotiated the arrangement themselves has potential implications for the arrangements themselves – and raises questions as to whether the parties' needs were met in any financial arrangement and whether divorcees were receiving appropriate guidance on what they should be aiming for in their financial

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<sup>133</sup> Matrimonial Causes Act 1973, s25(1).

<sup>134</sup> Law Commission, *Financial remedies on divorce and dissolution: A scoping report*, (2024), para 1.54.

<sup>135</sup> In addition, in light of our findings in the main *Fair Shares* report that a large majority (84 per cent) of divorced parents who had non-dependent children continued to support them financially at the point of divorce, and for a time afterwards, we suggested that there might be value in extending the court's duty under section 25 MCA 1973, to give 'first consideration' to the welfare of the family to include non-dependent children so that their presence within the family unit could be expressly taken into account (n 1 above, p.366).



arrangement. In particular, it raises the question as to whether an equal care time child arrangement is more likely to lead to a more equal split of the assets. The findings outlined in this paper suggest that asset splits are much more equal for this group compared with other parents. For example, in terms of overall assets, the split was more likely to be equal and there were no significant differences in what mothers and fathers got overall. Also, parents with equal time care were more likely than other parents to have a pension sharing agreement and there were more 50:50 splits of savings and debts.

However, caution needs to be exercised here, as although equal time care parents were more likely to have split their assets more equally, it does not mean to say that such financial arrangements are appropriate for other parents. Neither do these findings suggest that encouraging equal time care child arrangements across all parents should be the way forward. On the contrary, the findings outlined here merely highlight the process and financial implications for a small group of generally wealthier parents who appear to have a relatively amicable ongoing relationship, albeit with some ongoing communication issues. One question that is raised in light of these findings is whether the financial arrangements that have been struck in these equal time care cases are a result of strategic bargaining. For example, did one party push for an equal care arrangement in order that the financial outcome was more equally weighted? As Smyth and Rodgers<sup>136</sup> have previously noted, this is a very difficult question to test empirically and certainly not something that we have been able to examine through the current dataset. (Indeed, we do not know the order in which child and financial arrangements were made.) Questions are also raised regarding the interrelationship between the equal time care arrangement and the financial arrangement that has been struck and whether this works in the long-term. What happens to equal time care financial arrangements if the parenting arrangement changes over time - particularly in light of the findings that fathers who reported that they have an equal time care arrangement have a looser understanding of the concept? These remain questions for further research.

## Families where one parent had main care of the children: more legal involvement and a greater likelihood of unequal asset division

Resident parents were more likely than other parents to engage a lawyer at some point during their divorce process, often related to perceived difficulties in dealing with their ex-spouse. For those that used a lawyer throughout, six in ten resident parents and a third of non-resident parents said that they did so because they did not feel comfortable negotiating with their ex-spouse. However, for resident and non-resident parents who did not use a lawyer at all or for only part of the process, fear of costs was a major factor in not doing so. These findings suggest that unlike equal time care parents, resident and non-resident parents found it more difficult negotiating with their ex-spouse and needed more support during the divorce process.

In terms of the financial arrangements that were made for this group of parents, on average resident parents received more than non-resident parents, particularly in the case of low value divorces, and to some extent among high value cases. However, for parents with mid-value assets, the division of the assets between resident and non-resident parents was more

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<sup>136</sup> See B Smyth and B Rodgers, 'Strategic bargaining over child support and parenting time: A critical review of the literature' (2011) 25 *Australian Journal of Family Law* 210, 211.

equal. When considering the reasons for these findings, it is particularly helpful to look to the statutory requirement that first consideration is the welfare of the child. Given this clear statutory steer, it is to be expected that the resident parent received a greater share of the assets in most cases, particularly in the lower value cases and where the house was rented, especially given the finite number of options available to parents in terms of re-housing following divorce. It is therefore perhaps unsurprising that four in ten resident parents in this band received all (100 per cent) of the assets. The more surprising finding however, is the limited difference between resident and non-resident parents in mid-value asset cases. Perhaps in these cases, the negotiation and ensuing arrangement was more a fine balancing act given the other assets that may be in play in a middle value case (i.e. pensions, savings and debts) and if transfer of the former matrimonial home takes place (which the findings show is common), then offsetting that transfer with pension assets or attempting to find a compensatory amount to enable the other parent to rehouse, may mean a more difficult balancing act for parents in the mid-asset case.

## An association between having a child maintenance arrangement and more contact with the non-resident parent

Our most notable finding in relation to financial arrangements and child maintenance is that a child maintenance arrangement was more likely to be in place where non-resident parents had contact with their child. Where non-resident parents had contact, two thirds of families had a child maintenance arrangement, but in cases where there was no contact, this figure dropped to only three in ten. In addition, the findings not only show a correlation between reaching a financial settlement and having a child maintenance arrangement for both resident and equal time care parents, but also that resident parents who received the smallest proportion of the total assets were the least likely parents to receive ongoing child maintenance. The latter finding has potential implications for the ability of these parents to recover financially following divorce as well as to meet ongoing needs for both themselves and their children. This is also an important point for policy makers when examining child poverty issues and in considering what can be done for the lower asset groups who have no child maintenance arrangement.

The finding that a child maintenance arrangement was more likely to be in place where non-resident parents had contact with their child is unsurprising but important. The delicate bargaining over child maintenance and parenting time is not a new issue,<sup>137</sup> and the Child Support Act 1991 itself contains a link between overnight contact and reduction in the amount of child support payable.<sup>138</sup> Drawing on Millman as part of their analysis,<sup>139</sup> Smyth and Rodgers suggest, that while the family is generally thought of as being within the private realm and beyond the workings of a market economy, it “often edges into an economy of exchange’ – albeit with a softer underbelly – in which many of the hidden qualities of the market, such as coercion, brinkmanship, competition, tally sheets, and conditional

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<sup>137</sup> See B Smyth and B Rodgers, ‘Strategic bargaining over child support and parenting time: A critical review of the literature’ (2011) 25 *Australian Journal of Family Law* 210.

<sup>138</sup> Child Support Act 1991, Schedule 1, para 7(4).

<sup>139</sup> M Millman, *Warm hearts & cold cash: the intimate dynamics of families and money*, The Free Press, New York, 1991.

exchanges come into play.<sup>140</sup> Given our previous finding that amongst parent divorcees who did have some form of child maintenance arrangement, family-based arrangements were the most prevalent arrangement type,<sup>141</sup> a relevant question is whether child maintenance negotiations are particularly vulnerable to this 'economy of exchange' and in particular, whether 'strategic bargaining' over issues such as parenting time and levels of child maintenance come into play. This is a question of particular importance in this jurisdiction given the ongoing policy prioritisation of private and informal family-based arrangements.

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<sup>140</sup> B Smyth and B Rodgers, 'Strategic bargaining over child support and parenting time: A critical review of the literature' (2011) 25 *Australian Journal of Family Law* 210, 212.

<sup>141</sup> Family based arrangements for child maintenance comprised just over a quarter of all divorcing parents with dependent children, E Hitchings et al, *Fair Shares* report, (n 1 above) ch 9.

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