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# What is a Mesher Order?

A Mesher Order or an order for deferred sale (often known as a transfer and a chargeback) is a court order that postpones the sale of the former matrimonial home and provides a chargeback (a legal charge securing in the interest of the home) to the husband or the wife or both once the property is sold. The property remains occupied by one spouse and the couple's children and remains in both names. The order is in place until a specified event occurs, at which point the property is sold.

## The specified events which might trigger the sale include:

- A remarriage;
- One half of the former couple move in with a third party (i.e. cohabitation) for a period: or
- The children are completing their education (including tertiary) or reaching a certain age.
- A disabled child or child or child with particular needs

With a Mesher order, it means that, although the sale may be required to fund a divorce or new accommodation for both parties, there is a 'reprieve' for the person currently living in the marital home to find an alternative place to live. More often than not, the other party has often already moved out and will already have somewhere to call home.

Please note consideration has to be given as to whether this type of order is suitable for you and is often linked to the amount of mortgage owed and who will be paying it.

## What happens when no triggers are related to children, and you cannot afford a new home?

In situations where a Mesher Order might not be applicable, especially when there are no child-related triggers,

an alternative solution exists known as a Martin Order. This can be applied when a separating couple has no children or when a family court may conclude that the wealthier spouse does not need immediate access to the capital locked up in the couple's former home. In this instance, it is possible that the less affluent spouse would be unable to rehouse themselves if the former marital home was sold and their interest in the property was realised. Therefore, a Martin Order is only triggered if the circumstances of the couple point towards the house absolutely needing to be sold to pay for any expenses.

Although the popularity of this type of order peaked from the 1980s to the 1990s, many contemporary family solicitors view both the Martin and Mesher Orders as somewhat antiquated. There's a growing consensus that they should be seen as measures of last resort.

## Need advice?

If you require more information or confidential advice about your circumstances and would like to come in and talk to one of our expert [family](#) law solicitors, please get in touch with our family team at [online.enquiries@LA-law.com](mailto:online.enquiries@LA-law.com).