

Financial Order Procedure

Where there are financial matters to be addressed within a Divorce, which is in most cases, we need to establish at any early stage whether it is appropriate to issue what is known as a Financial Order Application. Making such an Application to the Court should not be regarded as a hostile step or a last resort, but rather a way of starting the Court timetable. When addressing financial matters, it is incumbent upon both parties to provide full financial disclosure. There is an obligation upon the parties to make full and frank disclosure of all material facts, documents and any other information relevant to the issues. The duty of disclosure is an on-going obligation and includes the duty to disclose any material changes after initial disclosure has been given.

In order to issue an Application, a document known as Form A is lodged with the Court. This is a document which we will prepare on your behalf. There is a Court fee payable upon lodging the document with the Court and we will advise you of the cost at the initial interview. Once we file the Application with the Court, it is then necessary for us to serve any Mortgage Providers or Pension Companies if applicable/appropriate.

Once the Application has been issued with the Court, the Court will then timetable your case for the following: -

1. A date when financial documents are to be exchanged with your former husband/wife in a format known as Form E;
2. When Questionnaires (detailing the questions you wish to raise of the other for further information), a Chronology (detailing all relevant dates within your Marriage) and the Statement of Issues are to be filed with the Court. This is approximately fourteen days before the First Appointment and is also served upon your former husband/wife;
3. The date of the First Appointment (known as the FDA).
4. The First Appointment is the first Hearing before a District Judge. The purpose of the Hearing is to establish whether any further information is required from either party in order to ensure that full disclosure has been made before entering into negotiations to hopefully settle financial issues. The District Judge will also consider whether there needs to be any other Directions made, such as valuations of properties/businesses to be undertaken or any other Expert information obtained. The District Judge will then re-list the Hearing for a Financial Dispute Resolution Hearing (also known as an FDR appointment).
5. Once further information has been obtained by the parties and served upon one another, each party is then obliged to put forward proposals for settlement of the case. These proposals should be filed with the Court prior to the FDR appointment. In some cases, a financial settlement can be achieved before the FDR Hearing, however, if your case is not settled before the appointment, then you must attend Court to try and negotiate a settlement. A Barrister may be instructed to advise on possible settlements prior to or at this stage particularly if your case involves complex issues.
6. At the FDR Hearing the District Judge may give an indication on how your case could possibly settle and what he/she deems to be reasonable. The District Judge however will not

impose an Order upon you by way of settlement at this time but will encourage negotiations between the parties and if agreement is reached, can approve any such agreement at that time. If an agreement has not been reached, the District Judge will make further Directions in order to prepare the case for the Final Hearing.

7. In the run up to the Final Hearing it is incumbent upon both parties to try and reach an agreement to avoid any further costs involved in a Contested Hearing.

8. If an agreement is reached prior to the Final Hearing, it may be possible to avoid a further attendance at Court by way of drawing up an agreement in the form of Consent Order, a formal Court document outlining the terms of the agreed settlement, which is filed with the Court for approval.

9. If an agreement is not reached, your case will proceed to Final Hearing and in the run up to the Hearing, Bundles and further documents will need to be prepared.

10. At the Final Hearing, you will be represented by a Barrister and the District Judge will hear evidence from you and your husband/wife in respect of the financial issues. Once all of the evidence has been given, the District Judge will then give Judgement confirming how the finances should be separated and whether either party has an on-going duty to maintain the other.

11. In arriving at a Final Order, capital, income and pensions will be taken into consideration and the District Judge has a discretion to make many Orders which can include the sale of the property, a lump sum Order (where one party makes a capital payment to the other), the transfer of a property from one party to another) or a maintenance Order (where one party pays monthly payments to the other to assist with their outgoings). There is also the opportunity, if appropriate for a Pension Sharing Order to be made. The District Judge must also consider whether a Clean Break can be achieved which means that neither you nor your spouse would have any on-going financial claim against the other. The possible Orders which can be made or agreed upon will of course be discussed with you throughout your case.

This is just a brief synopsis of the financial procedure, we will of course discuss the procedure in more details with you throughout the case.

If you have any queries whatsoever, please do feel free to [contact us](#).