

## FINANCIAL APPLICATIONS TO THE COURT

Either spouse or civil partner can apply to the court to resolve financial disputes arising from divorce or civil partnership dissolution.

### COURT PROCESS

Once an application has been filed, the court automatically generates standard directions to help the case progress. Each party will be required to:

- Attend the First Appointment (FA) hearing at the given date and time detailed
- File at court and exchange completed Financial disclosure (Forms E) by a set date, providing full financial details and evidence in support of their individual financial circumstances
- Exchange a short statement summarising the disputed financial issues, a timeline of events, a request for any further information needed from the other party, and a form saying whether the first hearing will proceed as a First Appointment or a Financial Dispute Resolution Hearing (FDR - see below). If an FDR hearing is possible at this stage, it can save you money in legal fees.

Before every court hearing, each party must file and exchange a prescribed form summarising their legal costs.

### 1. FIRST APPOINTMENT (FA)

The first appointment is usually listed for 30 minutes before a District Judge, who considers whether more information is necessary to help both parties negotiate and achieve a settlement. This may include directions to file replies to questionnaires by a specific date or obtain expert evidence to value, e.g. a property or business. The court will then fix the next court appointment.

### 2. FINANCIAL DISPUTE RESOLUTION (FDR) HEARING

The financial dispute resolution (FDR) hearing is usually the second court appointment. The FDR is a 'without prejudice' hearing, which means each of you can make proposals for settlement that cannot be referred to in court afterwards. Instead, the Judge will assist you in reaching a settlement and may indicate an appropriate solution. If you reach an agreement, the court may make an order that day to formalise your agreement and end the court proceedings.

If you cannot reach an agreement on the day, the Judge will give further directions needed to get the case ready for the final hearing and fix the final hearing date.

### 3. THE FINAL HEARING (FH)

At a final hearing, both parties have an opportunity to present their case to the Judge through oral evidence and documentation. Both parties, and any experts whose evidence is not agreed, will give oral evidence to the court. After hearing all the evidence and submissions from each legal team, the Judge will decide and make a final financial court order.

There is limited scope to have your legal costs paid by the other person in financial proceedings. The general rule is that each person pays their own legal fees. Very few cases are determined by a Judge at a final hearing. Most parties will reach an agreement with the assistance of their family lawyer before that stage.

### HOW DOES THE COURT DECIDE WHAT IS RIGHT?

The court follows the legal principles from legislation and case law in making its decision. However, each Judge has the discretion to do what they perceive to be appropriate based on the evidence in each particular case. Unfortunately, this means the precise outcome of financial court proceedings can be quite challenging to predict.

The court has a broad discretion to redistribute family assets as they see fit. For example, it can make lump sum orders, property adjustment orders (e.g. a transfer or sale), spousal maintenance orders for a specified period and/or pension sharing or adjustment orders. It can also order child maintenance in limited circumstances or if agreed. A clean break order is where your financial ties are severed and will protect parties from a future claim.

In certain circumstances, some orders may be varied later, e.g. spousal maintenance orders, where there has been a significant change in income.

*This guide is intended to be general information and not to be relied upon as legal advice. This is a complex area, and each case is different. We would suggest you contact us to obtain complete and proper legal advice.*