

## FINANCIAL DISCLOSURE AND FORM E

When a marriage or civil partnership comes to an end, difficulties and challenges often arise when reaching a fair financial settlement. Part of the process when negotiating a suitable arrangement is for both parties to exchange financial disclosure, including income, property, capital assets, pensions and debts.

### WHY IS FINANCIAL DISCLOSURE NECESSARY?

Financial disclosure is the process of giving your spouse or partner full details of your personal financial circumstances and your future needs and resources. It is essential to assess not only the immediate financial impact but also the long-term financial needs of both parties and those of any children.

It is usually the first thing your family lawyer will ask you to do before agreeing on settling your financial arrangements. Hence, they can advise you properly about the likely outcome of your case or the fairness of any agreement. Therefore, disclosure is essential whatever process you intend to use to achieve a solution.

If financial proceedings are issued, the court will order you both to complete and exchange financial statements (Form E) before the first court hearing. However, many parties agree, to avoid court action, to exchange Form E's voluntarily.

### HOW CAN I PREPARE FOR FINANCIAL DISCLOSURE?

It will help your solicitor, save you time and control your costs if you can get organised early. Start collating information as soon as you think you might want a divorce:

- Write a list of everything you think you own (assets)
- Write a list of everything you think you owe (debts)
- Obtain your pension information (all your pensions)
- Find your mortgage/life insurance documents
- Gather your pay/bonus information
- Write a list of all your bank/building society accounts
- Gather supporting documents to evidence all the above

You may also need to talk to an accountant if, for example, a calculation of potential tax liabilities is needed or accounts for any companies, or if you are self-employed.

It is often the case that trust between parties breaks down at or around the same time as the marriage or civil partnership. Therefore, it is essential to note that you should not access, read, copy or open any documents that do not belong to you (including post or via a computer). All such documentation

is confidential. If you act in this way, it could lead to injunctive and/or criminal action against you. Likewise, do not leave your financial information lying around.

### HOW DO I COMPLETE FORM E?

A Form E is a lengthy document and can seem rather daunting at first. We can assist you with this. There are also guidance notes available and a helpful checklist at the very end of the form.

Your Form E should be treated like any other evidence and be comprehensively completed to positively progress matters. However, it is often the case that the Form E is completed in draft and then sent to your solicitor to review. Your solicitor will request from you any outstanding information or documentation needed and offer further advice and guidance on completion before finalising the form for your approval.

### AFTER FORM E'S ARE EXCHANGED

Once Form E's are exchanged, there may be issues arising from each other's disclosure that need to be clarified. Your solicitor will help you review the other party's Form E to spot any irregularities that may need further explanation. For example, regular payments out or suggesting possible other undisclosed assets or income or missing documents.

Each of you will have the opportunity to ask questions about the other's financial disclosure so that you have all of the information needed to help you get to a resolution.

Expert evidence may also be required to supplement your financial disclosure. For example, a surveyors report to value the family home or a pension actuary report. Pensions are often one of the most valuable assets, and complex calculations may be needed to determine their actual value before agreeing on the extent to which they should be shared.

It is also worth bearing in mind that there is an ongoing obligation to update financial information until matters are concluded, particularly if matters take time or if court proceedings are issued.

*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.*

For more information, please see our website [www.kjsmith.co.uk/our-services](http://www.kjsmith.co.uk/our-services)

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