



DEAN WILSON
SOLICITORS

**Financial Remedy Fact Sheet:
Court Procedure**

If negotiations fail between parties or if there are special circumstances, there may be no alternative but to make an application to the Court for financial provision. This is a brief summary of what each of the stages entails.

STAGE 1 – ISSUING THE APPLICATION

- Proceedings are commenced by filing a Notice with the Court called “Form A”. A fee is payable - currently £313.
- The Court lists a hearing - known as the First Appointment.
- This appointment should be between 12 to 16 weeks from the time of submitting your application – but is often later than this due to issues with Court listing.
- Each party must then no later than **35 days** before the date of that hearing file with the Court a completed and sworn Form E (Financial Statement) and must serve a copy of it on the other party.
- No later than **14 days** before the First Appointment there are further documents which must be filed with the court and served on the other party:
 - Valuation of the family home; ideally a jointly obtained market appraisal.
 - Evidence as to mortgage capacity of the parties, ideally obtained through joint instruction.
 - 3 sets of property particulars evidencing your case as to housing need for yourself and the other party.
 - Questionnaire – this will often arise from the Form E where further clarification or information may be required. This provides an opportunity to request further documents from the other party where needed/their Form E disclosure is incomplete.
- By the First Appointment both parties should know about each other’s finances and the matters about which they agree and disagree.

STAGE 2 – THE FIRST APPOINTMENT

- Both parties must attend
- The appointment is before a District Judge. The hearing is held in private, the only persons present being the Judge, the parties and their legal representatives.
- The object of the hearing is to consider what further directions are required to put the parties in a position to negotiate.
- The District Judge accordingly may do one or more of the following:-
 - Give further directions on how the case is to proceed, e.g. further information might be needed through the answering of Questionnaires and producing further documents, an independent joint valuation may be needed where there is disagreement between parties as to the value of an asset, expert evidence as to pension sharing and business valuation, further evidence may be asked for from either party
 - List the matter for an FDR (Financial Dispute Resolution Hearing) (see stage 3)
 - Adjourn the case for the parties to go to mediation/Private FDR if it is considered appropriate.
 - If the matter is not going to be capable of resolution by mediation or FDR hearing, fix the case for a final hearing as quickly as possible (see stage 4).

STAGE 3 – THE FINANCIAL DISPUTE RESOLUTION HEARING (FDR)

- Both parties must attend, neither is required to give evidence
- The objective is for the parties to try and reach an agreement.
- The Judge's role is to give an indication of how they would divide the matrimonial assets if the case was before them at a Final Hearing and they encourage parties to reach an agreement. Therefore the Court needs to be notified of all offers, proposals and responses that either party has made to the other to settle the matter. The Judge can discuss these proposals openly with you.
- At the FDR the District Judge may do any of the following:-
 - Adjourn the hearing if appropriate
 - Approve a Consent Order if parties reach a settlement
 - Give further directions if parties have not settled and further information or

clarification is required to prepare the case for a Final Hearing including Section 25 narrative statements and updating financial disclosure.

- Fix a date for Final Hearing if there is no settlement.
- NB – the District Judge who sits at the FDR hearing cannot hear the Final Hearing; the case will come before a different Judge.

STAGE 4 – THE FINAL HEARING

- Both parties must attend and give oral evidence if required.
- They may also be subject to cross-examination by the other party's legal representative.
- The District Judge will consider all the documentation provided during the proceedings, any further information supplied, the evidence given at the hearing and any submissions from each party's legal representatives before coming to a decision.
- The District Judge will then make a Final Order.

COSTS

The general rule on costs is that each party is responsible for their own costs although an Order for costs can be made against a party where their conduct (usually litigation conduct) warrants it.