



Ancillary Relief Procedure

In most cases there are financial matters to be addressed within a divorce and it is usually appropriate to make an application to the Court. This should not be regarded as a hostile step or a last resort, but rather a way of commencing the Court timetable, controlling the financial disclosure which is to be made between the parties, and endeavouring to keep costs to a minimum.

When addressing financial matters it is incumbent upon both parties to provide full and frank financial disclosure. There is an obligation on the parties to disclose all material facts, documents and other information relevant to the issues. The duty of disclosure is an ongoing obligation and includes the duty to disclose any material changes after initial disclosure has been produced. The obligation only ends when a court order is made and extends to all foreseeable changes in circumstance regarding each party's finances.

We are able to prepare the application to issue at Court and upon issue there is a fee to be paid to the Court which is at present £240 (Nov 2010). Once an application is filed at Court it is then necessary to serve any mortgage providers or pension companies, if applicable, with the application.

Once the application has been issued the Court will then timetable your case for the following:

- 1.** A date when financial documents are to be exchanged with your former spouse/civil partner in a document known as the Form E; such is a sworn affidavit.
- 2.** A further date when Questionnaires (detailing any questions you wish to raise of the other for further information), a Chronology (detailing all relevant events within your marriage), and a Statement of Issues are to be filed with the Court. This is approximately 14 days before the First Appointment and are also served upon your spouse/civil partner;
- 3.** The date of the First Appointment (also known as an FDA). 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 any other Directions need to be made, such as valuations of properties / businesses, or any other expert information obtained. The District Judge

will then list the hearing for a Financial Dispute Resolution hearing (also known as an FDR appointment).

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. 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 has not settled before the FDR appointment then you must attend Court to try to negotiate a settlement. A Barrister may be instructed to advise on proposals for settlement prior to or at this stage, particularly if your case involves complex issues.

At the FDR hearing, the District Judge may give an indication as to how your case could possibly settle and what he/she deems to be reasonable. However, the District Judge will not, and indeed cannot, impose an order upon you, but will encourage an agreement and can approve any such accord. If a solution is not reached by the end of the appointment the District Judge will make further directions in order to prepare the case for Final Hearing. A date for the Final Hearing which includes preparation of court bundles and updating of financial disclosure will, if possible, also be given, or will follow shortly thereafter in correspondence from the Court.

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

At the Final Hearing you will be represented by a Barrister and the District Judge will hear evidence from both parties in respect of financial issues. Once all evidence has been given, whether this be just from yourself and your former spouse, or also on occasions, experts, the District Judge will then give judgement.

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 a sale of a property, a transfer of a property to one party, a lump sum order (where one party makes a capital payment to the other), and 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 ongoing 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.

The above is a brief synopsis of the financial procedure and we will, no doubt, discuss the procedure in more detail with you throughout your case.

If you have any queries whatsoever, please do feel free to contact us:
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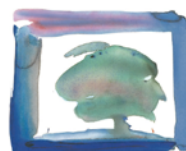
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