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# Financial settlement

An overview of procedure for financial orders



*working for  
accessible justice*

## Financial settlement -an overview

There are enormous advantages to taking a co-operative and collaborative approach to settling finance and property disputes without court proceedings. Litigation is unpredictable, expensive and can be stressful.

There are, however, occasions where all options are exhausted and an application to court is necessary. This guide gives you an overview of the procedure and what to expect.

Once an application to court has been made, the court fixes a First Appointment (FDA) not less than 12 weeks and not less than 16 weeks from the date of filing the application.

The Respondent needs to be served with a copy of that notice.

Under the court's rules both parties must contemporaneously exchange, and file with the court, a statement containing details of income and capital assets as well as their outstanding liabilities and the income requirements of each of the parties. This is recorded in a Form E. This needs to be signed by the party who made the statement, sworn to be true and contain and attach the information required.

Form E needs to be exchanged and filed not less than 35 days before the date of the FDA.

It is a large document and needs to be completed carefully and honestly. Helpful guidance on how to complete the Form E can be found in the document attached.

## Preparation for the first appointment (FDA)

Good preparation is necessary for the FDA to be effective. The aim of the hearing is to identify issues early in the proceedings and ensure that they are properly teased out thereby reducing costs in the long term. 14 days before the FDA and after the filing of the Forms E, both parties need to file the following:

- **A concise statement** of issues between the parties. This document enables the parties and the court to identify points in the proceedings which remain an issue.

- **Chronology**

The chronology sets out the personal details of the parties and any children, for example, dates of birth, dates of cohabitation, marriage and separation, etc.

- **A Questionnaire**

This sets out the extra information needed so that the parties and the court have sufficient information to decide the case but that the disclosure made is proportionate to the case.

## •A Notice in Form G

There is a procedural mechanism that allows the parties to use the date of the FDA as an FDR if there is adequate disclosure in Form E.

The object of the FDA is to define the issues and to save costs. It is the first opportunity for the District Judge to examine the case and the parties must attend the hearing personally. It provides a good opportunity for negotiations.

At the FDA the Judge needs to determine the extent to which any questions must be answered and documents produced. The Judge will only permit questions if they are relevant and proportionate to the issues between the parties.

### **The District Judge can give directions on:**

- The valuation of assets.
- Obtaining and exchanging expert evidence if required.
- Evidence to be produced by each party and, where appropriate, further chronologies or schedules.

If the parties are unable to settle at the FDA, or, if there is any outstanding disclosure required, the District Judge will refer the matter to a Financial Dispute Resolution hearing (FDR) if appropriate.

At every hearing there is a requirement for both parties to produce an estimate of costs in Form H. Form H must contain an estimate of costs and disbursements incurred up to the date of the hearing. This enables the parties to understand the level of costs incurred in proportion to the assets in question.

## Final dispute resolution

The Financial Dispute Resolution hearing (FDR) is designed as a forum of negotiation and discussion between the parties.

One week before the FDR the Applicant must file a schedule of offers and counter offers and any responses to the offers between the parties. These are returned to the parties at the end of the FDR. The court sees all offers made but should the matter not settle, the documents are not seen by the District Judge who will sit at the final hearing.



The purpose of the FDR is to meet, discuss and negotiate. The District Judge who hears the FDR will have no further involvement in the case. The parties must attend in person and use their best endeavors to reach agreement on the matters in issue.

As a consequence, the parties can approach the FDR openly and the court expects the parties to place their cards on the table.

The role of the District Judge is to hear the arguments and give recommendations and comments as necessary to assist the parties in coming to an agreement.

The FDR is conducted on a 'without prejudice' basis and anything said during the FDR will not be part of the Final Hearing. If the matter settles, a consent order can be made. If the matter does not settle, the court can make directions and, if appropriate, the filing of evidence and fixing of a Final Hearing.

## Final hearing

It is often the case that proceedings settle before the Final Hearing but, if this is not possible, the matter will be listed for a Final Hearing and the bundle of evidence will be prepared most usually by the Applicant's solicitors.

Following all the disclosures the parties have given, the court will already be in possession of a great deal of information about the case and the hearing will be heard in private in the Judge's chambers.

The case is usually heard by a District Judge who will decide how to conduct the hearing. The District Judge will make his or her decision and communicate this to the parties.

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