



STOWE

FAMILY LAW

PREMIUM HANDBOOK

REVIEWING YOUR FINANCIAL DISCLOSURE





CONTENTS

What is financial disclosure?	3
<ul style="list-style-type: none"> The role of the Form E What is a Form D81? Can I manage my own/my ex's financial disclosure without a lawyer? Exchanging financial disclosure 	
Reviewing financial disclosure	6
<ul style="list-style-type: none"> Why is it important? What is involved? What happens if there are issues with the disclosure? Can I review financial disclosure without a lawyer? 	
What are the next steps?	9
<ul style="list-style-type: none"> Non-court based resolution Court disputes 	
Support with financial disclosure	10
<ul style="list-style-type: none"> Legal advice Divorce coach Financial adviser/planner/accountant Domestic/economic abuse 	
The importance of legal advice	11
Conclusion	11



This handbook is a guide to reviewing your financial disclosure. The disclosure process is an important part of reaching a financial settlement in divorce.

Reviewing your financial disclosure is your primary opportunity to look over both your own, and your ex-spouse's, disclosure to check for any wrong or missing information with your solicitor.

This handbook guides you through what to look out for, where additional valuations may be required, and what other legal and professional support is available.

For ease, we refer to divorce, marriage, and spouse. However, the same processes apply for civil partnership dissolution.

Please note, this handbook is for general information only and should not be used in the place of legal advice. Speak to an expert family lawyer for tailored guidance on your specific circumstances.



WHAT IS FINANCIAL DISCLOSURE?

Financial disclosure is the process of sharing full and frank financial information between two separating parties, i.e. you and your ex-spouse. It is standard to use formal documentation to do this, although this is not mandatory. This process allows the ex-couple, and their respective solicitors, to understand the financial situation at the point of separation.

The purpose of disclosure is to be able to understand what is in the matrimonial pot for division and thereafter to negotiate a financial settlement with your ex-spouse. From these negotiations, your solicitor can draft a financial settlement, known as a financial consent order.

This agreement will be submitted to the Family Court, which will then grant the order, if it is fair, just and reasonable. This action legally dissolves your financial ties. You do not need a financial consent order to get divorced, however it is highly recommended as not getting one leaves you vulnerable to financial claims from your ex-spouse.





THE ROLE OF THE FORM E

The important documents in completing financial disclosure are the Form E and Form D81. It is not mandatory to complete the Form E unless court proceedings have been issued. However, completing the form will likely significantly help in reaching an agreement and will ensure that you have all the relevant financial information available to you to be able to do this.

The Form E is a lengthy document that you and your spouse both complete separately giving the specifics of your financial situation both jointly (with your spouse and/or any third parties) and solely. You need to complete the form with the most up-to-date details of your finances, assets, property, and debts. Alongside your Form E, you will need to submit a number of documents that evidence your financial situation, for example bank statements.

Read our **Stowe talks How to Handbook 'How to complete your Form E'** for more detailed insight and a step-by-step guide of how to fill in the form. You can ask your solicitor to complete the form on your behalf. This may be costly, as they will need to review all your financial documentation and then fill in the form, which takes considerable time. When the forms are completed, you then exchange Form Es with your ex-spouse.

The next step is to review the financial disclosure, which you should do alongside your solicitor.



WHAT IS A FORM D81?

When you submit a draft consent order to the court, it must be accompanied by Form D81 – known as a Statement of Information. This form is not as in-depth as the Form E, but it is an important statement of information – providing the court with a snapshot of your financial circumstances prior to the financial agreement being implemented, and after it has been implemented. It allows the court to carry out a cross-check of fairness and provides you and your spouse with the opportunity to explain how you reached the financial agreement you have (and why it is fair and how it meets your respective needs). Form D81 asks for details of your marriage and your separation, before requiring information as to why you have made the agreements contained in the draft consent order.

Your solicitor will be able to assist with this form. It is an important document to get right, as it helps the court to decide whether your agreement is fair.



CAN I MANAGE MY OWN/MY EX'S FINANCIAL DISCLOSURE WITHOUT A LAWYER?

You can do the process of financial disclosure without involving a lawyer. You can also fill in a Form E and exchange disclosure with your ex-spouse without a lawyer, but engage one later.

However, it can be risky to not use a lawyer. Importantly, lawyers are trained to discern where information is missing or incorrect, both on your form, and your ex-spouse's when you exchange.

Financial disclosure is a very important part of the divorce process, as without the disclosure it would be almost impossible to negotiate a financial settlement, or for your solicitor to advise you on the fairness of the agreement. Ensuring you get expert legal advice will minimise any risks of an incomplete or mis-informed agreement, which could be rejected by the court or even granted, meaning you are legally bound to unfair terms.

For more information on the risks of not seeking legal advice, listen to our podcast '**The Dangers of a DIY Divorce**'.

EXCHANGING FINANCIAL DISCLOSURE

When you have completed your Form E and it has been approved by your lawyer, you then exchange forms with your ex-spouse. This is usually done through your individual lawyers.

Please note, if you have not filled in the Form E, your lawyer will be unable to give you legal advice on your settlement. They will give you a disclaimer and advise that you exchange at least a Form D81 before you make any offers in negotiation.



REVIEWING FINANCIAL DISCLOSURE

Reviewing financial disclosure is a vital part of dividing finances in divorce. This is the part of the process where any mistakes, missing information or potentially suspicious activity can be flagged before negotiations begin and a settlement is reached.

WHY IS IT IMPORTANT?

It is important to understand the full extent of your and your ex-spouse's financial situation, current to the point of negotiations. This means your financial negotiations are based on the most up-to-date and full information, ensuring a fair and reasonable settlement at the end.

Your lawyer can help you to review your own financial disclosure by working through your Form E with you. They will be able to note any gaps and ask specific questions to ensure that your disclosure is completed fully.

If you have instructed your lawyer to complete the Form E on your behalf, they will have reviewed the disclosure throughout the process and asked any questions or requested documents at the time. However, you will need to have a meeting to go through everything before you exchange documents with your ex-spouse. This is a good chance for you to ask questions, and flag any changes that may have occurred in the interim that could alter your disclosure, for example if you changed jobs.

It is important that your documentation is accurate, as inaccurate information could be used against you in negotiations or in court. Reviewing your ex-spouse's financial disclosure is equally important. This is the opportunity for you to note any missing information, any inaccuracies, or any suspicious behaviour such as unusual transactions. Your lawyer will be able to assist you with the process.





WHAT IS INVOLVED?

When you have exchanged Form Es (or other disclosure documents) with your ex-spouse, you will then need to work through the documents with your solicitor. If you do not have one at this stage, it is highly recommended that you seek specialist advice from a family lawyer.

Your lawyer will review your ex's disclosure. As part of this process, they will make note of any questions they have, non-disclosure, or clarification they need. This is known as the Questionnaire. They will then discuss the Questionnaire with you.

You may be able to fill in the missing gaps. However, if there are questions you cannot answer, this information will need to be requested from your ex, and they may have to submit more documents. If there are issues obtaining this information, you can apply to the court for a direction that requests compliance from the other party. This means that the court tells your ex-spouse they must submit the required information, or risk sanctions.

In some cases, where your ex refuses to or cannot give information, it is possible to apply for a third-party (or non-party) disclosure order. This allows your lawyer to obtain the necessary information from an organisation like your ex's bank or HMRC.

The more missing information, inaccuracies or other issues there are, the longer this process will take. This can be costly both to your time and your money. Therefore, it is important that your disclosure is as accurate as possible before exchanging.

When the review is complete and all gaps are accounted for, you and your ex will need to sign a Statement of Truth, which confirms your belief that the information provided is accurate to the best of your knowledge.

Financial negotiations can then begin. This may be through court proceedings, but ideally you and your ex would be able to use a non-court dispute resolution method, such as mediation, collaborative divorce or even a private Financial Dispute Resolution hearing (pFDR).





WHAT HAPPENS IF THERE ARE ISSUES WITH THE DISCLOSURE?

Ideally, financial disclosure would be complete with no errors. However, mistakes can occur. This is often a risk if you do not use a lawyer to assist with the disclosure process. In reviewing financial disclosure, your lawyer will pull out errors and gaps in yours, and your ex-spouse's disclosure. This may be a missing bank statement, or another fixable issue.

However, if there are ongoing or significant issues with disclosure, action may need to be taken. If you spot a problem in your ex's disclosure, for example suspicious movements of funds, or they have not disclosed a bank account you know they have, you must tell your lawyer immediately.

Your lawyer will be able to advise you on the best course of action. In some cases, there may need to be a court order. Potential court orders to assist with disclosure problems include:

- Freezing order / freezing injunction - **Read more about freezing orders**
- Third party / non party disclosure order
- Penal notices for non-compliance / non-disclosure

Should there be missing information and the consent order is approved, these could leave you open to claims in the future as the assets/finances have not been accounted for. Your ex could ask the court to reopen the case and make a new order in such circumstances. It is important that you ensure all bases are covered.



CAN I REVIEW FINANCIAL DISCLOSURE WITHOUT A LAWYER?

You can review your own and your ex-spouse's financial disclosure without a lawyer. This is the case if you have filled in a Form E or are using another form of disclosure.

Divorce finances can be overwhelming and time consuming so you need to ensure you have the headspace to thoroughly check everything. You should pay particular attention to transactions in the bank accounts.

There are risks with not seeking expert legal advice at this stage of the process. Lawyers are trained on what to look out for in financial disclosure and will likely have a clearer head. They will know the right questions to ask, and if any further information is required.

WHAT ARE THE NEXT STEPS?

When the financial disclosure has been reviewed, and you, your lawyer, and your ex-spouse are happy to proceed, you can move on to negotiations. Your negotiations will lead to a final financial settlement. Listen to our Stowe talks podcast *How to prepare for your financial settlement in divorce*.



NON-COURT BASED RESOLUTION

The family justice system is heavily prioritising out-of-court resolution methods to ensure more amicable settlements between separating couples. As part of your divorce process, you will need to attend a Mediation and Information Assessment Meeting (MIAM) or provide a valid reason as to why this is not feasible. Please note, the exemptions are strictly limited, and are usually applied where there are safeguarding concerns.

There are a number of non-court dispute resolution (NCDR) methods used for financial negotiations:

- **Negotiations through solicitors**
- **Mediation (including hybrid, shuttle, traditional) - Download our 'How to' Handbook**
- **Collaborative divorce**
- **Arbitration**
- **Private Financial Dispute Resolution hearing (pFDRs)**

Your lawyer will be able to advise you on the best method for your situation, and it is important to do your own research.

COURT DISPUTES

Some cases may need to go through the Family Court. It may be the case that your financial disclosure has been ordered by the court, and your dispute continues through the court. Alternatively, if you and your ex-spouse come to an impasse or one of you brings a claim against the other, you will likely need to go to court.

You can continue with a NCDR method alongside the court process, and some separating couples find they can resolve their differences before a hearing is necessary. In this case, the court can approve an order reached by consent, vacate any court hearings listed, and finish proceedings. The court encourages parties to continue to attempt to resolve matters even if proceedings have been issued.

You can represent yourself in court as a litigant in person, or your lawyer can represent you. Going to court is costly, and often places huge stress and strain on individuals and their relationship, making it more difficult to move forward after the divorce. Unless there are safeguarding issues, for example allegations of domestic abuse, it is usually better to use a NCDR method.

It is also important to note that the courts have been given powers under the **changes to the Family Procedure Rules** which allow them to make cost sanctions against individuals who bring unnecessary claims, or fail to attempt NCDR.

SUPPORT WITH FINANCIAL DISCLOSURE

Dealing with finances is one of the most stressful and complicated aspects of divorce. Building a solid support network is important, and it is highly recommended that you seek independent legal advice for help reviewing financial disclosure.



OTHER SUPPORT:

- **Financial Support line** – 0808 1968 845
- **Women's Aid directory of local support**
- **Mankind Initiative** – 01823 334244
- **Samaritans** – 116 123

LEGAL ADVICE

A lawyer is incredibly useful for support with reviewing financial disclosure. Lawyers are specially trained to ask the right questions and ensure you have the correct information and supporting evidence to make the process of disclosure and coming to a settlement as smooth as possible.

A lawyer can:

- Give legal advice on the contents of your/your ex's disclosure.
- Complete the Questionnaire to give to the other party.
- Help with Form D81 – a form that is sent to the court together with a proposed financial order (in cases when you reach an agreement without issuing court proceedings) to explain the assets and issues between you and your ex.
- Help you with next steps.

DIVORCE COACH

A divorce coach can assist with form filling, as they have a baseline knowledge of the law. Divorce coaches are there to emotionally and practically guide you through the process, working alongside your legal team to make your experience smoother.

Divorce coaches are not legally trained and cannot give legal advice. However, they can help you manage your emotions and practical issues you face.

Find out more about divorce coaching, and our Stowe Family Law partner divorce coaches.

FINANCIAL ADVISER/ PLANNER/ACCOUNTANT

It is important, particularly if you have complex assets, to seek independent financial advice from an IFA, financial planner, or your accountant. These professionals will work with your legal team to ensure your assets are planned and protected.

DOMESTIC/ ECONOMIC ABUSE

If you are a victim of domestic abuse, and are suffering **economic abuse**, please reach out for help. There is lots of support available, both legal and emotional.

You may be entitled to receive **Legal Aid** – a Government funded program that supports people from disadvantaged backgrounds in accessing legal representation.

If you are in immediate danger, call the police on 999, or the domestic abuse helpline 0800 2000 247.



THE IMPORTANCE OF LEGAL ADVICE

It is important to seek advice at an early stage from an expert family lawyer when reviewing financial disclosure. It is easy to miss things, and ask the wrong questions if you do this process by yourself.

Although it is possible to do your financial disclosure and review your own and your ex's without legal input, family lawyers have extensive experience dealing with all eventualities. They are on hand to manage the process, construct a list of relevant questions and requests for missing information, and to practically guide you through the process.

It is also important, where there are complex assets, to see financial advice from an IFA.

CONCLUSION

Divorce is rarely entirely straightforward, and managing the division of finances can cause disputes. It is important that the review of financial disclosure is done correctly. Failure to do this may mean the final consent order is rejected by the court or signed off with missing information, meaning you can no longer bring a claim. Once a financial order is made by the court, it is extremely difficult to change it.

It is important to ask for support where you need it and to utilise a network of experts, and trusted friends and family, to help the process run smoothly.

You can find a wealth of financial support for divorce on **Stowe Support**.



STOWE

FAMILY LAW

DISCLAIMER

The information in this guide applies only to England and Wales. The law may be different if you live in Scotland or Northern Ireland. This guide serves as a generic overview and source of information. It is not a substitute for legal advice and is not a complete statement of the law. Please seek legal advice where possible.

NEED MORE INFORMATION?

Call our Client Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit **stowefamilylaw.co.uk**

