



HOW TO: **MANAGE FINANCIAL HEARINGS IN THE FAMILY COURT**

Your questions answered by
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Splitting finances in divorce can become contentious. There are many methods of resolving disputes between couples if direct negotiation does not work, including mediation, collaborative law or arbitration.

Lawyers will encourage alternative dispute resolution as far as is possible, taking into account obstacles which may make this inappropriate, for example allegations of domestic abuse or where there are concerns about financial non-disclosure.

However, in some cases, an agreement cannot be reached on financial arrangements, and family court intervention is necessary in the form of a financial hearing. These encourage an agreement to be reached between the parties and, if this is not possible, the court will eventually impose an order upon the parties.

If you need to go to court to resolve your finances, the process usually involves three hearings in front of a Judge. The number of hearings can be reduced if the parties are able to resolve matters between themselves at the earlier hearings.



HOW TO PREPARE FOR A FINANCIAL HEARING

Before making an application for a financial hearing, you will need to attend a MIAM (A Mediation Information and Assessment Meeting), which is a first meeting with a trained mediator.

A mediator is a neutral third party specially qualified to help resolve disputes.

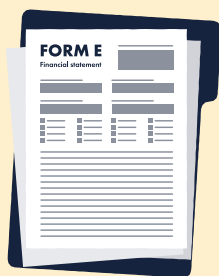
At this meeting, you will discuss whether mediation would be appropriate before making a court application. If this is not suitable or appropriate, the mediator will then provide you with the signed form to include within your application to the court.



FIRST DIRECTIONS APPOINTMENT (FDA)

A First Directions Appointment (FDA) is the first hearing in financial proceedings.

Prior to the FDA hearing, the court will expect both parties to have complied with the directions set down in the order, which will include:



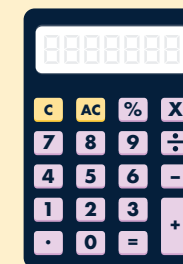
**THE EXCHANGE
OF FORM E**



**QUESTIONNAIRES
REGARDING EACH
OTHER'S FINANCIAL
DISCLOSURE**



**VALUATIONS OF
ANY PROPERTY**



**MORTGAGE CAPACITY
INFORMATION**

The Judge will decide what issues need to be addressed and what further information is required, such as the need for a pension report or a joint valuation on property. The next steps will then be outlined in an order and the matter will be clearly timetabled.

If no further information is required, the court will encourage an agreement between the parties to be reached. If this is not possible, a Financial Dispute Resolution (FDR) hearing will be listed.

Sometimes, it is possible to bypass the need for an FDA hearing by agreeing directions and next steps in advance. It is important to seek further advice from your solicitor to determine whether this is appropriate in your case.



FINANCIAL DISPUTE RESOLUTION (FDR)

A Financial Dispute Resolution (FDR) is the second hearing in financial proceedings.

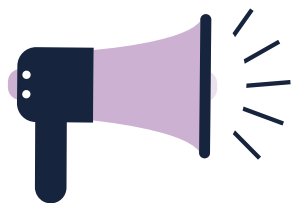
It is designed to encourage and assist the parties to reach an agreement, so that an order can be made.

The hearing will take place on a “without prejudice” basis which means the discussions and conversations will not be used against either party in a final hearing (if a final hearing is necessary).

Providing all outstanding information has been obtained prior to the FDR, the FDR Judge will give the parties an indication of what order they would make in this case if it was a Final Hearing. The parties are then given the opportunity to negotiate to reach an agreement.

If an agreement cannot be reached, the matter will be listed for a Final Hearing, addressing any further information or issues that may have arisen in the course of negotiation, if appropriate.





FINAL HEARING

Prior to the Final Hearing, you will be expected to comply with the directions set down by the court.

This typically includes:



**UPDATING FINANCIAL
DISCLOSURE**



**YOUR OFFERS FOR
THE SETTLEMENT**



**A STATEMENT SETTING
OUT YOUR CASE**

The Final Hearing is the last hearing in financial proceedings. Both parties will have the opportunity to present their case, evidence and their offers, and cross examination will also take place. It is not uncommon for a Final Hearing to last several hours or days.

The Judge will make a final decision based on the evidence presented to them, and a final order will be made.





WHAT HAPPENS NEXT?

If an order is made at court, this order will be sealed into a financial consent order, drafted by the barristers.

Each person, and their individual solicitor, will review and approve the draft before it is submitted to the Judge for final approval. This document is legally binding.

It is important that any steps taken are in accordance with the order, for example sale of the family home, or transfer of pension shares. It is therefore vital to seek legal advice and support if you are unsure about what you are expected to do.

If an agreement has been reached with your spouse and financial proceedings are not necessary, you still require a consent order to be filed with the court setting out the agreement. This ensures it is legally binding and will protect you from any claims in the future. It is therefore important that this is drafted by a solicitor before submission to the court.



WHAT CAN BE DECIDED AT A FINANCIAL HEARING?

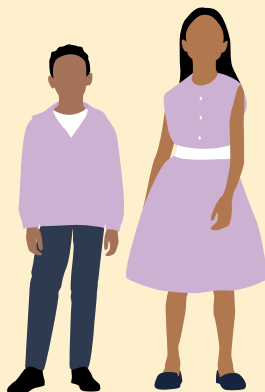
The Family Court has the power to grant various financial orders, which form part of your financial settlement. A financial consent order outlines the financial arrangements agreed by the couple.

IT CAN INCLUDE:



A PROPERTY ADJUSTMENT ORDER

For example the sale or transfer of the family home



MAINTENANCE ORDER

Where one spouse pays maintenance to the other



LUMP SUM ORDER

Where one spouse is ordered to pay to the other a lump sum, either in one payment or instalments



PENSION SHARING ORDER

Where a percentage of a spouse's pension is transferred to the other

FACTORS A COURT CONSIDER WHEN AGREEING FINANCES

The first factor a court considers when agreeing a financial settlement is the welfare of any minor child or children of the family.

The court will then consider other relevant factors, including the following:



The income, assets and earning capacity that each person has, and is likely to have in the foreseeable future.



The financial needs, obligations and responsibilities that each person has, and is likely to have in the foreseeable future.



Any physical or mental disability of either person.



The standard of living enjoyed by the family before the breakdown of the marriage.



The contributions each person has made to the marriage and family, and is likely to make in the future. This could be financially, or through other contributions like caring for children.



The behaviour of each person if it is considered appropriate to the situation.

Behaviour in financial remedy proceedings will only be considered insofar as it impacts the financial settlement, and is a serious financial crime, for example tax fraud. Behaviour during the marriage such as infidelity will not impact your financial settlement.

Non-compliance with court directions, deliberately misleading evidence and non-disclosure can result in cost sanctions for the offending party which are included within the financial settlement. These are known as costs orders, and usually mean the offending party must pay their ex-spouse a sum of money.



THE IMPORTANCE OF LEGAL ADVICE

Going to the family court can be daunting, and it is important that you seek legal advice from a family lawyer.

Family lawyers are specialists in this area and qualified to advise you on your legal position throughout. They are experienced in guiding clients through the court process, so will ensure your case is well-prepared, you have all the relevant paperwork and evidence required, and your case is progressing, as it should be in line with the court directions.

Having the right person by your side can also help dial down the stress, so you can approach the hearings with the information and support you need to make well-informed decisions from a calm and measured place.



USEFUL LINKS

Form A, Form C and Form G

CLICK HERE

Form E

CLICK HERE

