

ANCILLARY RELIEF FACTSHEET

When a couple divorce, a financial settlement can be achieved either by negotiation and agreement, without applying to Court, or by an application to Court and Court order. Many couples reach an agreement with regard to the finances following negotiation and financial disclosure between solicitors. However in some cases, for a variety of reasons, it is necessary to make an application to Court for the Court's involvement in reaching a financial settlement. The legal term for a financial settlement is "ancillary relief".

The person who applies for ancillary relief is called the Applicant and the other spouse is the Respondent. If you are applying to Court, then your solicitor will file a Form A on your behalf which indicates the type of financial relief that you are seeking.

The Court will list a first appointment between 12 and 14 weeks from the date of filing Form A. The Court will set dates for exchanging sworn statements of financial circumstances which is in Form E. Your solicitor must file no less than 14 days before the first appointment a concise statement of the issues between you and your spouse, and a chronology. They must also file questionnaires which include any requests for additional documents which may be required.

Your solicitor will need information from you to enable them to prepare the Form E. That information includes the following:-

- Details of all bank, building society and National Savings accounts, together with PEPS, TESSA's and ISA's. Copy bank statements for each account are required for the last 12 months.
- A copy of any property valuation that has been obtained in the past 6 months.
- A copy of the most recent mortgage statement.
- Your most recent P60 and your three most recent pay slips.
- A summary of any liabilities including debts etc.
- Pension information which your solicitor will need to obtain on your behalf.

The first appointment

Both parties must attend the first appointment. The object of the first appointment is to define the issues and deal with the questionnaires and lists of documents. At the first appointment, the District Judge will decide which additional questions must be answered and what documents requested must be produced. Directions will be given by the Judge.

In the vast majority of cases, the Judge will fix a date for the Financial Dispute Resolution hearing (FDR). If there has been full financial disclosure by the time of the first appointment and both parties are in a position to negotiate, it is possible that the

District Judge will treat the first appointment as an FDR. It is therefore possible that the matter can be settled by agreement at the first directions appointment. In most cases this will be unlikely.

Your solicitor will have prepared an update in respect of costs and will give you a copy of it, as well as the Court and your spouse's solicitor.

Financial Dispute Resolution

The FDR appointment is to be treated as a meeting held for the purposes of discussion and negotiation. Usually financial disclosure will have been obtained, and both parties are encouraged to reach a negotiated settlement. Your solicitor will advise you as to what sort of settlement you can reasonably expect. There will be negotiations between solicitors and the District Judge will want to know how the negotiations are going on. The District Judge will usually want to hear what sort of offers are being made by both parties, and will usually intervene to make comments as to the offers. In many cases, a settlement is reached at the FDR.

Please bear in mind that although the appointment is only listed for an hour or two, the case could last much longer.

If an agreement is reached, a draft Court Order will be prepared by solicitors and filed at Court, to be approved by the District Judge.

A further costs update will be provided by your solicitor at the FDR.

Final hearing

In a minority of cases, it will not be possible to settle at the FDR appointment. The court will list the matter to be heard for a final hearing, usually a couple of months later dependent on the Court time available. If the matter proceeds to a final hearing, a barrister would normally be instructed. Evidence would be heard by the District Judge from both parties, and any expert in respect of valuations etc. The Court will make a judgement and will then consider the question of costs after the final hearing.

Ancillary relief rules

The overriding objective is to enable the Court to deal with cases justly. This includes the following:-

- Firstly ensuring that the parties are on an equal footing.
- Saving expense.
- Dealing with the case in ways which are proportionate to the amount of money involved, to the importance of the case, to the complexity of the issues and to the financial position of each party.
- Ensuring that it is dealt with expeditiously and fairly.
- Allotting to it an appropriate share of the Court resources, while taking into account the need to allot resources to other cases.

The Court will actively manage cases and has the following objectives:-

- a) encouraging the parties to co-operate with each other in the conduct of proceedings
- b) encouraging the parties to settle their disputes through mediation
- c) identifying the issues at an early date
- d) regulating the extent of disclosure of documents and expert evidence so that they are proportionate to the issues in question
- e) helping the parties to settle the whole or part of the case
- f) fixing timetables or otherwise controlling the progress of the case
- g) making use of technology
- h) giving directions to ensure that the trial of a case proceeds quickly and efficiently

The above is a summary of the ancillary relief scheme which is intended to assist you with understanding the procedure. However, there are many issues which it is not possible to deal with in this leaflet. Please do raise with your solicitor any questions you have arising from it.