

The Financial Remedy Process

Prior to commencing financial remedy proceedings, a party must usually attend a Mediation Information and Assessment Meeting (MIAM). At this meeting, one person will meet with a mediator to assess whether the case is suitable for mediation. If the mediator determines the case is not suitable for mediation they will sign and issue a certificate, which can be given to your solicitor so that they can prepare and file with the court Form A (notice of [intention to proceed with] an application for a financial order).

The court will then set a date for the First Appointment before the District Judge.

Prior to the First Appointment, the court will set a deadline for you and your former partner need to complete, file with the court and serve on the other party a financial statement called Form E, a statement of issues, a questionnaire on the other party's Form E, and a chronology (known as protocol documents).

Usually, the First Appointment will concern directions for dealing with the case moving forwards. However, negotiations may also take place - it is never too late to come to a voluntary agreement about finances.

If an agreement is not reached at the First Appointment, the judge will set a date for a Financial Dispute Resolution Hearing (FDR Hearing). At this hearing, the judge will usually give an indication of what they think would be a reasonable financial settlement, and further negotiations will proceed on the basis of that indication. If you are able to come to an agreement during this hearing, the judge should approve it and a Consent Order can be made.

If agreement is not reached at the FDR Hearing, the judge will set a date for a Final Hearing. At this hearing, the judge will make a final decision, based upon all the oral and written evidence available, about how finances should be arranged and will make a Financial Remedy Order.

How the District Judge makes their decision in financial remedy proceedings

The aim is to achieve a fair resolution for your family. The District Judge will always put the welfare of any children first.

The District Judge will initially consider whether a 'clean break' is possible, where finances are divided completely with no ongoing financial ties between you and your former partner (other than child maintenance, if necessary).

Financial divisions will not necessarily be 50-50. Capital and Income can be divided according to needs, as well as a sharing basis. The court takes into account a number of factors, such as:

- The income and financial resources of the parties, including property and future earnings.
- The parties' financial needs, responsibilities and obligations, now and in the future.
- The standard of living the parties enjoyed before the separation.
- The parties' ages and how long they have been married.
- Any mental or physical disabilities.
- Any contributions the parties made or will make to the family, including homemaking and raising the children.