



I want to apply for a Financial Order

Introduction

During or after a divorce/dissolution, the annulment of a marriage/civil partnership (nullity) or a (judicial) separation, there may still be a need for the court to settle disputes over money or property. The court can make a financial order. This may deal with the sale or transfer of property, maintenance payments (e.g. weekly or monthly maintenance), a lump sum payment and/or a pension sharing or attachment order.

This leaflet is for you if:

You are a party to a divorce/dissolution, nullity or (judicial) separation proceedings and you want to apply for a financial order.

If you need help deciding whether you can apply for an order; you should speak to a solicitor or Citizens Advice Bureau, legal advice centre or a law centre. For free legal information, help and advice contact Community Legal Advice on 0845 345 4345 or clsdirect.org.uk. A court official can give you information about court procedures but cannot advise you about the merits of your case.

Mediation

Before you begin proceedings you should consider mediation. In mediation, an impartial, trained mediator, not connected with your case, helps you and your partner to resolve your disputes.

Mediation is not about getting back together. It is a chance for couples who are splitting to meet with someone who has been properly trained. This will help you to make arrangements for the future to work out plans for any number of things, including your children, your money, or your home.

You should attend a Mediation Information and Assessment Meeting before your application can be processed.

You can find your nearest family mediation service by visiting the government's website DirectGov (www.direct.gov.uk) and search using the words 'family mediation'. You will find a database of accredited family mediation services on the website.

The Mediation Information and Assessment Meeting does not take long and will provide you with an assessment of the situation and whether mediation could solve your problems. Depending on your personal circumstances you may need to pay for the meeting. It's important to bear in mind that successful mediation can reduce costs for you in the long-term.

Public funding may be available from the Community Legal Advice (CLA) service. The CLA telephone number is 0845 345 4 345 and their website is www.communitylegaladvice.org.uk.

How do I begin?

You must fill in a notice of application (**Form A**). Copies of this and other forms mentioned in this leaflet can be obtained from the court and are also available on the Internet at www.justice.gov.uk.

You must take or send your completed **Form A** (and 2 completed copies) to the court office where the divorce/dissolution, nullity or (judicial) separation application took (or is taking) place.

After you begin, there are usually three stages to obtaining a financial order:

- The First Appointment
- Financial Dispute Resolution (known as FDR)
- The Final Hearing

These stages are explained later in this leaflet. However, some cases are resolved more quickly and may not need to go through all three stages.

How much will it cost?

You may have to pay a court fee. For more information about fees, please refer to booklet **EX50 – Civil and Family Court Fees (High Court and County Court)**. This lists the most common family fees. You can get a copy from any court office or from our website at www.justice.gov.uk.

Methods of payment

Courts accept payment by debit or credit cards, cash, postal orders or cheques, which should be made payable to 'HM Courts & Tribunals Service'. If you pay by cheque and it is dishonoured, the court will take steps to recover the money. Non-payment will result in your case being stayed or even struck out.

What if I cannot afford to pay a court fee?

If you cannot afford to pay a court fee, you may be eligible for a fee remission in full or in part. The booklet **EX160A – Court Fees – Do I have to pay them?** gives all the information you need. You can get a copy from any court office or from our website at www.justice.gov.uk.

Costs

At every hearing (from the first appointment to the final hearing, if there is one) you and the other party **must** provide the court with an up to date estimate of your costs in your financial order application (on **Form H**). This will help the judge to make any appropriate cost orders.

What happens once the court has received my application?

The court will give you an appointment with a judge, who will first consider your case. This is known as **The First Appointment**.

The court will send you and the other party a Notice of the First Appointment (**Form C**) telling you when and where this appointment will be.

The first appointment must be between 12 and 16 weeks from the date you filed **Form A**. This is to allow you and the other party time to file documents at the court and serve copies (such as the financial statement – **Form E**) on each other.

Note – The date for the First Appointment can only be changed (adjourned) with the court's permission. Court staff will be able to tell you how to do this.

What do I need to do before the First Appointment?

By the First Appointment both parties should know about each other's finances and the matters about which they agree and disagree.

Therefore, you and the other party must each complete a financial statement (**Form E**). There are notes to help you fill in this form. You should also ensure that you have sworn on oath or affirmed that the contents of Form E are true. You can do this before a member of the court staff (this is free) or before a solicitor (there will be a fee for this).

No later than 35 days before the date of the First Appointment each party must:

- File the completed and sworn (or affirmed) **Form E** at court.
- Serve a copy of **Form E** on the other party.

Note – The exchange of each party's Form E must take place at the same time as they are filed at the court. Therefore, you will need to contact the other party (or their solicitors) to agree a date. The exchange can be done by post.

No later than 14 days before the date of the First Appointment

The notice of the First Appointment (Form C) also tells you which other documents are needed. **These documents must be filed at the court and served on the other party at least 14 days before the First Appointment.**

With a view to identifying and narrowing the issues, both parties should also exchange with each other and the court:

- a concise statement of the issues between the parties
- a chronology
- a questionnaire setting out by reference to the concise statement of issues any further information and documents requested from the other party or a statement that no information and documents are required, and
- a notice stating whether that party will be in a position at the first appointment to proceed on that occasion to a FDR appointment.

Note – You should be aware that the court might make an order for costs against you if you do not follow the deadlines for filing **Form E** and other documents.

Offers to settle

You or the other party may at any stage of the proceedings make a written offer to each other to settle any issue or part of the proceedings relating to the application for a financial order. You may wish to take legal advice before making or replying to an offer.

What happens at the First Appointment?

You must both personally attend this appointment. If you do not you may have to pay the other party's costs of the wasted appointment.

The appointment takes place before a judge who can do any of the following:

- Give further directions on how your case will proceed. The Judge might need further information and adjourn this hearing to a new date to allow time for this to be done.
- In certain circumstances and if both parties agree, make a final order in respect of your financial application.
- Refer your case to an FDR (Financial Dispute Resolution) hearing if the matter cannot be sorted out at this Appointment.
- Adjourn the case for you and the other party to go to 'mediation' if appropriate. For more details on mediation please see page 1.

What happens at the Financial Dispute Resolution (FDR) appointment?

This is an informal hearing. Both parties must personally attend, unless the court orders otherwise. The Judge will help you to reach agreement on the matters on which you both disagree.

Note – No later than 7 days before the FDR hearing, the person applying for the order must file at court details of all offers, proposals and responses you may have received from the other party, and any offers and proposals you have made in return. If you are still unable to resolve your disagreement at this hearing the Judge will fix a date for a final hearing.

What happens at the Final hearing?

At the final hearing, a Judge will carefully consider all the available evidence and make a final order.

Note – The judge at the final hearing will not be the same one who dealt with the FDR hearing.

What happens if an agreement is reached before a judge makes a final order?

If, before the final hearing, you and the other party are able to reach agreement, you can ask the court to approve the draft order. Court staff will be able to tell you how to do this. In divorce, dissolution or nullity proceedings the final order cannot be made (except for where it is for maintenance pending suit/outcome of proceedings or periodical payments for a child) until the decree nisi/conditional order is pronounced. The order cannot come into force until the decree nisi/conditional order has been made absolute/final.

Applications for Interim Orders

You or the other party, can at any time before the final order is made, apply for an interim financial order. Court staff will be able to tell you how to do this.

You can obtain information about the court and its facilities from the court office. The county court office is open Mondays to Fridays from 10am to 4pm. The Principal Registry of the Family Division (PRFD) is open Mondays to Fridays from 10am to 4.30pm.