

## **Court Procedure In Applications For Ancillary Relief**

This note is only intended as an outline summary for those involved in applications for ancillary relief (that is, those applications dealing with the property and financial aspect of marriage breakdown). It is not a comprehensive statement of the law and court rules; for further information and guidance, the advice of your solicitor should be sought.

The purpose of the Court's role in Ancillary Relief matters is to encourage early disclosure by both husband and wife of their financial positions and the nature of the claims being made; to limit the investigations that can be carried out and accordingly the costs that are incurred; and to move cases on to a consideration of the important issues by the court at an early stage with a view to seeing if they can be resolved without the need for a contested hearing.

Applications normally fall into three phases, although the court does have power to change this structure.

### *Phase One*

The application is sent to the court and a copy has to be sent to the other party. The court fixes a "first appointment" between 10 and 14 weeks ahead. It is likely to be difficult to persuade the court to change the date of that appointment. No later than 5 weeks before the first appointment, both parties have to provide for each other a completed questionnaire (called a Form E) setting out relevant details, mainly about their financial situation. **IF YOU DELAY IN DOING THAT, YOU ARE QUITE LIKELY TO BE ORDERED TO PAY COSTS TO THE OTHER PARTY** and it is really important, therefore, to get on quickly with obtaining the necessary information to go in the Form E.

After the Form E has been provided by the other side, questions can be asked about its contents at any time up to 7 days before the first appointment, although the questions do not have to be answered until that appointment has taken place and the judge has directed that replies be given.

You will be expected to be present at this first hearing. If you are not, you may again be ordered to pay costs to the other party.

### *Phase Two*

Directions that have been given by the court at the first appointment have to be complied with by the dates the court gives. Further questioning about the information provided may well not be permitted. **IF YOU FAIL TO COMPLY WITH ANY COURT ORDERS**

**REQUIRING INFORMATION TO BE GIVEN OR DOCUMENTS TO BE PRODUCED  
YOU ARE LIKELY TO BE ORDERED TO PAY COSTS TO THE OTHER SIDE.**

At the first appointment, the court will have fixed a second one, known as a Financial Dispute Resolution appointment (“FDR”). As its name implies, this is a meeting at which the court will expect both sides, with the help of the judge, to attempt to resolve their financial and property disputes and to reach an agreement. In an effort to help this happen, all discussions at the appointment will be treated as privileged. (That means that, for the purpose of any future hearing that might be necessary, these discussions will be regarded as having been “off-the-record” and any admissions or offers made will not be able to be referred to at any final hearing.) Both sides will have to tell the judge openly about any offers that have been made at any time before the FDR.

It is essential that you attend this hearing and you may once again be liable for costs if you fail to do so.

*Phase Three*

If the FDR has failed to produce an agreement, the court could order a further similar appointment, but it is more likely to direct that the case is to be listed for a full court hearing at which evidence could be given by either or both parties and the opposing arguments presented (to a different judge to the one who dealt with the FDR) and a final order made. If the application does have to go to a final hearing, then that will be taking place about 6 to 9 months after the application was first sent to the court.

Please bear in mind the importance of providing information quickly and of complying with court orders when they are made. If you do not, then, whether or not you are legally aided, you are likely to end up by having to pay not only your own costs but all or part of the costs of the