



Barristers' Chambers

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A Private FDR (or Early Evaluation Hearing)

a) The Court FDR

A Financial Dispute Resolution ('FDR') hearing is at the core of the present divorce financial remedy process operated by the Family Court and is the point at which the parties along with their legal teams can with the assistance of the Judge seek to reach a Court approved settlement – thus avoiding the delay and continuing costs engaged by listing the matter for a contested hearing. The Judge on the day considers skeleton documentation relating to the parties' finances and hears brief submissions from their advocates or themselves if not represented and then that Judge states what outcome he or she would consider to be reasonable.

b) The Disadvantages of the Court FDR

The FDR hearing has proved to be successful in resolving the many such financial remedy disputes before the Court; however:-

- the costs of the parties at the Court FDR hearing (outside London) can frequently be for even the 'run of the mill' case in excess of £10,000 to £15,000 and some are already in excess £25,000 to £50,000 or more by this stage;
- the listing time for the Court FDR hearing has been progressively getting longer and longer and can now take many months to reach from the start of the divorce proceedings and in a few cases more than 12 months;
- the parties cannot choose their Judge within the Court process and their case will invariably be listed for 1 hour within a daily list involving several other FDRs which means that the Court has limited time resources in fully assessing the details and issues of the individual case;
- the costs and delay already incurred by the Court FDR stage will without a settlement reached at that point be then added to considerably by a contested hearing



c) The Private FDR

A Private FDR (or Early Evaluation hearing) is a hearing which takes place outside the Court process before a specialised divorce practitioner or retired Judge of the parties' choosing and at a venue and time agreed upon by the parties in advance. The parties prepare for the Private FDR hearing in exactly the same way they would do for a Court FDR hearing – although it is likely the process by agreement will be more streamlined and focused than would otherwise be the case before the Court. The only difference is that the parties will be responsible for meeting the hearing fee in advance of the specialist Judge appointed.

In the event that the parties reach a settlement at a Private FDR, then thereafter upon the parties joint application the Court will make an order by consent reflecting the terms reached. If the Private FDR is unsuccessful, then the parties will still be able to continue the Court process in the standard way.

A Private FDR (or Early Evaluation hearing) has now been encouraged by the retiring President of the Family Court and Rules have been introduced to ensure, where the parties wish there to be such an event, that the Court process will, if already commenced, make agreed directions for the parties to take part in the same.

d) The Advantages of the Private FDR

The advantages are that the Private FDR:-

- can take place before formal divorce financial remedy proceedings are even started;
- will be arranged at a time and place to suit the parties and their legal advisors;
- is likely to take place far sooner than it would be under the present Court system with the obvious saving of costs to both parties;
- will be adjudicated over by a specialist of the parties' choosing who will act entirely independently in accordance with his or her professional standards;
- papers will have been read in advance by the specialist appointed who will be able to devote the whole day to the hearing and the parties if required in an effort to reach settlement;
- hearing will be as informal as desired by the parties;



- hearing fee of the specialist judge appointed is likely to represent a considerable saving to the parties' costs overall compared to the level of legal fees they would incur had they awaited a Court FDR hearing.

e) The Advantages of a Private FDR by Ashley Murray

The advantages of a Private FDR hearing conducted by Ashley Murray is that he:-

- he operates a fixed sitting fee of £4,000 plus vat for all cases where the net value of the assets engaged is less than £2.5m – fees above this net asset level are subject to reasonable discussion;
- he already holds authorisation uniquely as a Recorder (Judge) to sit within the Family Court process on divorce financial remedy hearings and appeals;
- he has sat on Family cases as a Recorder (Judge) for over 20 years;
- he was the first barrister on the Northern Circuit to practise exclusively over 20 years ago in divorce financial remedy work;
- he has for many years been ranked 1 by the national legal directories for his divorce financial remedy practice;
- he remains the most experienced barrister in such financial remedy work on Circuit;
- he was the original protagonist and campaigner for the 'Money Judge' system now operated on the Northern Circuit which he helped instigate in liaison with Ryder LJ;
- he is co-author of a standard legal textbook dealing with prenuptial agreements;
- he has lectured within the UK and Australia upon divorce financial remedy and pre and post marital agreement subjects;
- he has had numerous articles published in the Family Law Journal and elsewhere on financial remedy issues over the last 20 years;
- he provides regular Flyer materials to professional colleagues and local judges on current legal cases.



f) The basis of the Fixed Fee

The level of fixed fee of £4,000 plus vat above is on condition of the parties advance written and signed agreement of:-

- the net (after potential disposal costs of sale and any secured charges) combined Non Pension and Pension assets of the parties not exceeding £2.5m and the agreement of Ashley Murray that this is the position;
- the Private FDR hearing taking place and concluding between 9.30am and 4.30 pm on the date agreed for the hearing;
- the payment of any travel expenses incurred by Ashley Murray for the purposes of attending the Private FDR hearing agreed venue which exceed between his home and venue a round return mileage of 100 miles;
- the venue agreed upon for the hearing of the Private FDR hearing being suitable for the conduct of such a hearing and the arrangements for and the cost in relation to such a hearing being the sole responsibility of the parties and their legal advisors;
- the fixed fee being received and paid by the parties to Ashley Murray Ltd no later than 7 days before the date booked with Ashley Murray Chambers for the Private FDR hearing;
- in the event that the fee not being received and paid as above the matter being immediately vacated from Ashley Murray's diary and he being under no further obligation to undertake a Private FDR hearing between the parties;
- in the event of either party's or their legal representatives' non attendance or for any reason caused by the omission of either party or their legal representatives in relation to the conditions set out herein or otherwise and Ashley Murray determining that he is unable to proceed with the hearing and requiring the parties to make alternative arrangements, his paid fee will be non returnable;
- in the event that Ashley Murray is otherwise than as last referred to, by reason of his or his family's personal illness or sudden such other event, reasonably prevented from conducting the Private FDR hearing, his only liability whatsoever to the parties and their legal advisors shall be the return of the fee paid as above;
- the delivery by the parties to Ashley Murray by not less than 3 working days before the Private FDR hearing of a skeleton FDR bundle comprising only of:-
 - i) the bare FDRs, if already filed,
 - ii) any questionnaires and replies thereto,
 - iii) an agreed schedule of up to date net assets and net incomes with any reason for disagreement and alternative figures arising thereby endorsed briefly thereon;
 - iv) an agreed statement of resolved issues and outstanding issues;
 - v) a neutral chronology;
 - vi) copies of any relevant valuations;
 - vii) copies of any SJE reports
 - viii) copies of any relevant up to date company accounts and/or trust documents



- the delivery by the parties to Ashley Murray by not less than 3 working days before the Private FDR hearing of the written submissions of the advocates presenting the parties cases at the hearing.