

STATEMENT ON THE EFFICIENT CONDUCT OF FINANCIAL REMEDY HEARINGS PROCEEDING IN THE FINANCIAL REMEDIES COURT BELOW HIGH COURT JUDGE LEVEL

11 January 2022
HHJ Hess and Mostyn J

CRIB SHEET (Italics indicate quotation)

Paras 1-2 **Introit**

Paras 3-6 **Allocation**

- For issue, Applicant must fill out an allocation questionnaire found at Schedule 3 (Annex FRC3) to the FRC Primary Principles and each case will be allocated a judge who will either hear all hearings except FDR, or all hearings up to and including FDR.

Paras 7-12 **First Appointment**

- Will be listed for 45 mins unless allocation questionnaire indicates complexity, when allocation might list for 60 mins;
- Parties can agree *paper based accelerated directions* (like in the CFC) but comply with schedule 4 to the FRC Primary Principles;
- If you want to convert FA to FDR Court “*should*” be notified in advance;
- 14 days before FDR parties *should* (para10):
 - File joint market appraisal for FMH; if it is *impossible* to file jointly, file individual appraisals but *must be prepared* to explain impossibility;
 - *Use best endeavours to:*
 - file 3 property particulars for both parties;
 - *jointly obtained brief indicative material as to their respective borrowing capacities.*
 - File questionnaire but now maximum 4 pages (12 point font, 1.5 line spacing); court may approve longer if there is complexity incl. *alleged non disclosure*;
 - The day before FA, Applicant *must* file the composite asset schedule ES2 and case summary ES1 in the form attached to this Statement;
 - Can list final hearing date at FA.

Paras 13 –15 **FDR**

- 7 days before FDR Applicant *must file:*
 - Updated ES1 and ES2 (case summary and asset schedule);
 - A joint chronology, with disputed dates noted;
 - It is *unacceptable* for the Court to receive competing documents.
- FDRs to be listed for 60-90 mins, in the morning and parties and advocates *must* be available all day;
- If there is a private FDR and the court agrees the order, which will usually be made at FA, parties must:
 - identify the evaluator, or parties bring (Part 25 style) cvs and costings to FA and court will decide if no agreement;
 - dispense with Court FDR;

- only permit adjournment of pFDR by agreement/court order;
- list a mention after pFDR.

Para 16 Interim Applications

- Should be made to allocated Judge.

Para 17 PHR

- If case listed for 3 days or more it *should* have a PHR approx. 4 weeks beforehand, before the trial Judge.

Para 18 –21 Final Hearing

- Need a hearing template (timetable) to be completed at PHR or directions after FDR and template must allow for:
 - Witness/evidence;
 - Judicial reading time AND judgment writing time;
 - *Not normally* more than 30 mins opening;
 - *Not normally* any examination in chief.
- Expert evidence only allowed as per President’s Memorandum: Experts in the Family Court (4 October 2021); if 2 experts are giving evidence on the same topic, they must meet *no later than* 28 days before the final hearing;
- No later than 7 days before the final hearing Appt *must* file:
 - Es1 and ES2 noting unagreed items;
 - Composite chronology;
 - Individual documents are *unacceptable*.

Para 22 s25 and other witness statements

- Must comply with President’s Memorandum: Witness Statements (10 November 2021) and therefore:
 - Must annexe a list of documents referred to or been referred to in the statement indicating where they are found in the disclosure (e.g. Form E attachment) or otherwise exhibit;
 - Must *not exceed 15 pages* excl exhibits as best practice, unless need the 25 page limit in FPR 27 para 5.2A.1.

Para 23: Bundles

- Comply with PD 27A: don’t exceed 350 pages excl. counsel’s note, ES1/ES2;
- Bundle of agreed authorities to be filed, no more than 10 in total;
- File bundle no later than 2 working days before hearing and ebundles must comply with guidance and be searchable.

Para 24-27: Counsel’s Position Statements

- Maximum page count incl. schedules (best practice cf PD 27A para 5.2A .1):
 - FA: 6 pages;
 - Interim hearing 8 pages;
 - FDR 12 pages;
 - Final hearing 15 pages.
- A4 page, 12 point font, 1.5 line spacing;
- Any application to exceed page limits must be made by email application or at PTR for final hearing and must show “*good reason*”;
- Not reference previous position statements but cross reference documents;

- Emailed to Judge 11am day before hearing, or to court office if hearing not allocated and sent within an hour of filing to opponent.

Para 28-30: Final Hearing

- Timetable slippage *will not be tolerated .. unless there are very good reasons;*
- No assertion, comment or personal opinion in cross examination;
- If counsel *without reasonable excuse* fails to comply with timetable for filing notes, schedules and chronology or exceeds page limits, *they will risk an order being made disallowing a proportion of their fees;*
- If permission to appeal is sought after receipt of draft written judgment the grounds must be filed and served at least 1 day before permission hearing.

Para 31: Duty to Negotiate

- *At all hearings the court will require to be informed of the parties' compliance with the duty to negotiate openly and reasonably pursuant to PD 28A para 4.4. To enable the court to examine the attempts at achieving a negotiated settlement, position statements for each hearing must contain short details of what efforts the parties have made to negotiate openly, reasonably and responsibly.*

Para 32-34: Orders

- Comply with the President's Memorandum: Drafting Orders (10 November 2021);
- Use standard order templates (which are being revised);
- Order to be drafted and lodged the day of the hearing, maximum delay allowed 48 hours;
- *The date for the next hearing shall be fixed by the parties with the court and stated in the order before the parties leave the court, unless the court otherwise orders.*

Para 35: Wellbeing

- Court day is 10am – 4.30pm;
- No expectation that emails sent after 18:00 need be answered before 8am next day, and emailing between these times is *strongly discouraged* unless there is a *reasonable prospect* of settling the case or significantly reducing the issues.

Para 36: Digitisation

Para 37: Fast Track

- Exemptions from these rules for (variations of) Pps : paras 4,5,10,11 and 12