

Legal Jargon Explained

Acknowledgement of Service

This is the form which the Respondent sends to the Court in order to acknowledge and reply to the divorce petition.

Affidavit

A statement sworn on oath to be true by the person making it (the "Deponent"). Affidavits are used both in respect of the divorce action and in respect of the finances (see "Form E" below).

Answer

A formal defence or reply to a divorce petition in a defended case.

Ancillary Relief

A general term for the possible financial orders that a Court can make, sometimes otherwise known as a financial application and issued by way of a Form A (see below).

CAFCASS

The Children and Family Court Advisory and Support Service. A CAFCASS officer is a social worker who helps the Courts with matters relating to children and who may prepare a report in certain types of proceedings, if asked to do so by the Court. In disputed Children Act proceedings, he or she will usually meet with the parents and the children (separately) in order to prepare that report. He or she is independent of both parties. The role of the CAFCASS officer was previously performed by a Court Welfare Officer.

Clean break

A clean break in its purer sense is a financial order which prevents the husband or wife from making any further claims against each other in the future. In some cases, a clean break as to capital and property will be ordered with the issue of maintenance remaining open by way of a spousal maintenance order.

Collaborative Law

One method of achieving an agreed settlement whereby both parties are represented by lawyers but meet at a series of round table meetings in order to achieve a financial disclosure and subsequently agree terms of settlement. (See our collaborative law leaflet).

Consent Order

An order made by a Court giving effect to the terms agreed between husband and wife making those terms final and binding. A Consent Order can only be approved within the context of divorce proceedings.

Contact (formerly, and often known as access)

An arrangement by which a child sees the parent with whom he or she does not live. Contact can be informal. However if there is a dispute as to the terms of contact, an order can be made by the Court if absolutely necessary.

Co-Respondent

A person with whom the Respondent is alleged to have committed adultery or a person who is named in a behaviour petition. With an adultery petition, the law no longer requires the co-Respondent to be named and most solicitors will try to dissuade parties from naming a Co-Respondent as it tends to create greater animosity, delay and increase the costs of an action.

Decree Nisi

The first of the two decrees. A provisional order indicating that the Judge is satisfied that the ground for a divorce (irretrievable breakdown) has been established. It is also the first stage at which the Court is capable of approving terms of financial settlement.

Decree Absolute

The final order of the Court in dissolution

proceedings which brings the marriage to an end. Also the stage at which a previously agreed and approved financial order becomes definitive and binding.

District Judge

A County Court Judge who will deal with most aspects of divorce proceedings and FDA and FDR (see below).

Domicile

The legal relationship between an individual and a legal jurisdiction usually arising from residence. It is however possible to have or elect a domicile which is different from the country in which an individual lives (a complex area of law).

Family Proceedings Court

The division of the Magistrates Court that deals with family law matters and principally Children Act matters.

Financial Disclosure

Solicitors strongly encourage financial disclosure in relation to the financial aspects of divorce. The rationale is that the process allows both parties to be fully informed as to the other's financial situation and it puts solicitors in the position of being able to properly advise because all the facts are known. Additionally if a case is contested it allows a Judge to make a decision knowing all the facts. There are many different methods of achieving financial disclosure. Within mediation, within a Collaborative Law process, voluntarily between parties and / or solicitors or compulsorily once a financial application has been issued. In many cases, the parties will achieve a financial disclosure by way of a Form E whether the disclosure is achieved compulsorily or voluntarily.

Financial Dispute Resolution Appointment (FDR)

This is the second hearing in a formal application to the Court to resolve the

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financial aspects of divorce. Disclosure should have been complete and both parties should have made a proposal to settle. A Judge will look at the offers made on a without prejudice basis and may be able to provide guidance as to upon what terms a case should be settled. This can, in more straightforward cases, be accelerated by way of the FDA (see below) being used for FDR purposes.

First (Directions) Appointment (FDA)

This is the first appointment in a formal application to the Court to resolve the financial matters. A Judge will consider what information is needed by way of further disclosure (Form E's having been exchanged) and whether any further extraneous information (for instance valuation evidence) is needed to progress the case onto the next stage of the proceedings – the FDR.

Form A

This is a document prepared by solicitors and filed with the Court and is effectively a request to issue a formal financial application, for the Court to set a timetable, for the Court to direct the timescales within which exchange of Form E's should be completed and for the case to be listed for FDA.

Form E

A proforma financial statement that it is compulsory for the parties to use in an ancillary relief application and which is commonly used to achieve a voluntary disclosure.

Injunction

This is an order of the Court which will usually prevent a particular action. In family proceedings it is most commonly used within the context of domestic violence applications to oust an individual from a property and as a method of preventing further violence.

Joint Lives Order

A maintenance order for the joint lives of the parties, that is until the first to die.

Judicial Separation

A process of separation sanctioned by the Court which enables the Court to make some orders about money and property (but not pensions). It is a procedure which is primarily used by those whose religious convictions preclude divorce.

Maintenance Pending Suit

An application to the Court for an interim order in respect of maintenance pending the final resolution of matters.

Mediation

A process through which trained independent mediators try to assist separating parties to achieve a financial disclosure and to conclude an agreement in relation to the financial aspects of divorce or in relation to a dispute over children.

Mesher Order

Broadly, an order by virtue of which one party has a deferred interest in a property realisable at a later date on specified trigger events. (A "chargeback").

Parental Responsibility

Married parents of a child have joint Parental Responsibility for that child before, during and after divorce or separation. The term describes all of the rights, duties and responsibilities which, by law, a parent of a child has in relation to that child. Parental Responsibility can be acquired outside marriage by way of an application to the Court, by way of the father being named on the birth certificate or by agreement between the parties.

Periodical Payments ("PP's")

Ongoing maintenance.

Petition

The document in which the divorce or judicial separation is applied for.

Petitioner

The person who applies for a divorce or judicial separation.

Prayer

The part of the Petition or Answer that asks the Court to make certain financial orders in favour of either party and to dissolve the marriage.

Prohibited Steps Order

An order which prohibits certain steps in relation to a child for example a change of surname or removal from the country. Property Adjustment Order
An order that a husband or wife should transfer a property to the other or alter the way in which that property should be held, for instance a Mesher Order (see above).

Residence Order

An order requiring a child to live with a certain person. Residence orders replaced custody orders in a broad sense but the two should not be confused. The concept of "custody" as such no longer exists within English law.

Request for Directions

The stage of the divorce process after an acknowledgement has been filed by a Respondent whereby the Petitioner asks the Court to list a case for a Decree Nisi appointment.

Respondent

The recipient of divorce or judicial separation proceedings.

Specific Issue Order

An order determining a specific issue relating to a child, for example, which school a child should attend or whether certain medical treatment should be administered.

Spousal Maintenance

Maintenance that is paid for an ex-wife or husband as distinct from child maintenance. Spousal maintenance can be for varying amounts and for varying periods.

Statement of Arrangements

A form which is sent to the Court together with the divorce petition at the time of the issue of the divorce if there are children involved. It sets out the proposed arrangements for the children and should, if possible, be agreed by the parties before the divorce is issued. In the absence of agreement, the form can simply be served with the divorce petition.

Term Order

An order providing for maintenance to be for a fixed amount of time rather than a Joint lives order – see above

Without Prejudice

Letters, documents and even discussions that take place "without prejudice" cannot be submitted as evidence at a court hearing without the consent of both parties. WP correspondence may however be produced to the court on the question of costs once the Judge has made a decision.