Updates on cases and the financial remedy courts

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Financial Remedies Court (FRC) issued a new Financial Remedies Guide 2026

- Bringing together key procedural requirements and guidance governing the conduct of financial remedy proceedings in England and Wales.
- Practitioners are directed to note in particular the following sections of the Guide:
  - Non-Court Dispute Resolution (paras 21-28)
  - The Duty to Negotiate (para 30)
  - The process of allocation (paras 31-42)
  - General practice for freezing injunctions and Hemain injunctions, which are ordinarily heard by the family court at any level rather than in the High Court (paras 47-50)
  - The steps required for each stage of the financial remedies process (paras 51-79)
  - The strictures as to the content of s25 and other witness statements (para 80)
  - The principles as to preparation of bundles (paras 81-87)
  - The requirements in respect of position statements (paras 88-92)
  - The requirements in respect of drafting and lodging orders (paras 93-96)

https://www.judiciary.uk/guidance-and-resources/financial-remedies-guide-2026/

- The guide consolidates a range of procedural updates and practice developments into a single document intended to serve as the primary reference for practitioners and litigants involved in financial remedy cases.

- Merges and replaces earlier efficiency statements that had governed the management of financial remedy cases.

- While the guide largely consolidates existing practice rather than introducing substantive procedural reform, one notable change is an increase in the financial threshold for cases to be allocated to High Court level. The threshold has been raised from £15 million to £20 million.

- The publication also includes an updated overview of the structure of the FRC, together with a revised schedule of regional zones and their lead judges.

- In a joint notice, Mr Justice Peel, National Lead Judge of the FRC, and His Honour Judge Hess, Deputy National Lead Judge, said the guide is intended to provide a coherent framework for the management of financial remedy proceedings and to support continued modernisation within the family justice system.

- According to the notice, the guide should now be regarded as the essential reference document for the conduct of all financial remedies cases within the FRC.

Helpful takeaways / reminders

- A full list of FRC judges in all zones (“the organogram”) is published and regularly updated by HMCTS in liaison with Lead Judges and HMCTS staff. The organogram can be found on the Financial Remedies Journal website: www.financialremediesjournal.com/financial-remedies-court-structure/
- Save for a diminishing number of legacy cases, all FRC work is conducted online via:
  - The Contested Cases Online Portal (FPR 2010, PD 41H), or The Consent Orders Online Portal (FPR 2010, PD 41B)
  - Any document required to be filed by the court must be uploaded to the appropriate online portal - there is no physical court file
- Litigants in person:
  - Do not currently have access to the online portals
  - Must communicate with the court by email and m ust send documents by post for uploading to the bulk scanning centre at: *HMCTS Financial Remedy, PO Box 12746, Harlow, CM20 9QZ*
  - Work is underway to allow litigants in person to upload documents directly to the portals in due course
- The FRC recognises that many hearings can be conducted satisfactorily remotely. Local zonal guidance issued by Lead Judges will set out:
  - Which hearings should be heard remotely / should be attended in person and practical arrangements

NCDR:

- FRC judges ever-mindful of opportunities for NCDR and which are suited to the case – for example, mediation, private FDR Appointment, arbitration and collaborative practice - and will encourage parties to explore the available possibilities.
- FRC judges mindful (i) that by FPR 2010 r1.4, the court must further the overriding objective by actively managing cases and that by r1.2(2)(f), active case management includes encouraging the parties to use NCDR if the court considers that appropriate and facilitating the use of such procedure; and (ii) of their duty as set out in FPR 2010 Part 3 to consider at every stage in proceedings whether NCDR is appropriate.
- Where a case already in the court list is referred to a private FDR Appointment, the court will list a directions appointment or mention hearing which may be vacated in the event an agreement is reached and a consent order (accompanied by a D81) is filed and approved.
- Where a private FDR Appointment has taken place, the parties shall provide an explanation to the next FRC judge dealing with the case so that they can be assured that a thorough FDR exercise has taken place.

Injunctions:

- Freezing: For the avoidance of doubt, applications for freezing injunctions (whether under the Matrimonial Causes Act 1973 s37, or Senior Courts Act 1981 s37) should almost always be made and determined in the family court.
- Orders can almost always be made by judges at any level. Decisions on allocation where an application is also made for a freezing injunction will be made in accordance with the criteria set out above. Applications for freezing injunctions will only justify allocation at High Court Judge level if the complexity of the case justifies it in accordance with those criteria.
- Likewise, *Hemain* injunctions can almost always be made by judges at any level (these are interim anti-suit injunctions of limited duration).

FDA:

- Parties are encouraged to agree the directions to be made at the First Appointment based on the accelerated procedure annexed to this Guide as Annex 2 (with the standard form of draft consent order annexed as Annex 3).
- Parties may agree to use the First Appointment as an FDR Appointment in which case the court should be notified beforehand so that, if possible, a longer in-person hearing can be accommodated.
- No later than by 11:00 on the day before the hearing: ES1/ES2 (annex templates of these)
- Annex 2 – Accelerated First Appointment Procedure & Annex 3 – Standard Form of Draft Accelerated First Appointment Consent Order

FDR:

- Subject to available judicial resources, the FDR will be listed with a time estimate of 1 - 1½ hours unless the court at the First Appointment directs a longer or shorter period.
- FDR Appointments shall normally be listed in the course of the morning, ordinarily at 10:00 or 10:30, but parties and their advisers must ensure that they are available for the whole day. The parties will ordinarily be directed to attend one hour before the scheduled start time to commence negotiations.

Final Hearing:

- Every case listed for a final hearing of three or more days should be the subject of a Pre-Trial Review (“PTR”) held approximately four weeks before the final hearing.

- Subject to available judicial resources, the PTR should be conducted by the same judge who is to conduct the final hearing. At the PTR a final hearing template (timetable) must be approved by the court. For those cases without a PTR, the timetable should be considered and approved in the directions phase of the unsuccessful FDR.

- The admission of expert evidence will be in accordance with the President’s Memorandum: Experts in the Family Court (4 October 2021).

- No later than 11:00 on the day before FH: ES1 and ES2, composite chronology, an agreed statement of the issues *It is unacceptable for the court to be presented at the final hearing with competing documents.*

- If settlement is not reached at the FDR Appointment or private FDR Appointment (as applicable), subject to FPR 2010 r9.27A(1)(a) the parties must file with the court and serve on each other an **open proposal for settlement within 21 days after the date of the FDR Appointment.**

- If advocates, without reasonable excuse, fail to comply at the final hearing with paragraphs 74 (provision of Template ES1 and ES2, chronology and statement of issues), 88 (length and content of position statements), 91 (time for filing of position statements) and/or 78 (adherence to the hearing template) they may be subject to an appropriate sanction.

- Guidance on section 25 statements and other witness statements; also position statements

- Bundles - the limit of 350 pages does not include the position statements (see paragraph 89 below) and the composite documents. Correspondence (including with experts); bank or credit card statements and other financial records must not be included unless a specific prior direction of the court has been obtained.

Family Procedure Rules 2010 Practice Direction Update No 1 of 2026

- The Family Procedure Rules 2010 (FPR 2010), Practice Direction (PD) Update No 1 of 2026 has been issued, setting out amendments to several existing Practice Directions to improve procedural clarity in financial remedy proceedings following the introduction of the amended FPR 2010, PD 27A from 2 March 2026 and the publication of the Financial remedies guide on 13 March 2026, and extending various existing pilot schemes in other proceedings.
- Key changes include clarification of which preliminary documents should, where possible, be agreed between the parties in financial proceedings and setting out which party is responsible for filing each of the preliminary documents.
- Amendments are also made to FPR 2010, PD 27A to reflect the Financial remedies guide which was published on 13 March 2026 (see News Analysis: Financial Remedies Guide consolidates existing guidance and efficiency statements).
- The express financial remedy procedure pilot under FPR 2010, PD 36ZH is extended in time and geographical scope and enhanced information sharing with the police is set out in amendments to FPR 2010, PD 36ZI. In addition, a number of existing pilot schemes are extended beyond 2026.

Recent cases

OS v DT [2025] EWFC 156 (B)

Loh v Loh-Gronager [2025] EWFC 483

MA v WK [2025] EWFC 499

TY v XA (No. 4) [2025] EWFC 488

AP v TP (Pension Enforcement) [2025] EWFC 190 (B)

OS v DT [2025] EWFC 156 (B)

- The decision in OS v DT [2025] given by HHJ Hess and certified as citable, marks a significant development in child maintenance law where parents share the care of their children “exactly equally”.
- Although the case arose from a high-value financial remedies dispute, its wider importance lies in clarifying when the court, rather than the Child Maintenance Service (CMS), has jurisdiction to make child maintenance orders where there is an exactly equal shared care arrangement.
- Under the Child Support Act 1991, courts are usually barred from making child maintenance orders where the CMS has jurisdiction. However, regulation 50 of the Child Support Maintenance Calculation Regulations 2012 creates a unique situation in cases of exactly equal shared care. The CMS can only act where one parent provides less day-to-day care than the other. Where care is truly equal, there is no “non-resident parent” and therefore no CMS assessment can be made.

OS v DT [2025] EWFC 156 (B)

- HHJ Hess held that:
  - In cases of exactly equal shared care, the CMS has no jurisdiction under regulation 50.
  - Because the CMS cannot act, the statutory bar in sections 8(1) and 8(3) of the Child Support Act 1991 does not apply.
  - The court therefore retains its residual power under section 23(1)(d) of the Matrimonial Causes Act 1973 to make a child periodical payments order.
  - Crucially, he also ruled that a party does not have to apply to the CMS first. The court itself can decide whether care is equal and proceed on that basis.

Loh v Loh-Gronager [2025] EWFC 483

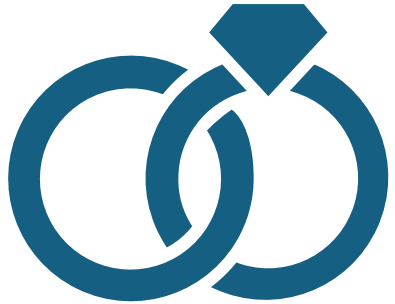
- In Loh v Ardal Loh-Gronager (following earlier reported judgments in Loh v Ardal Loh-Gronager [2024] EWFC 241 and Y v Z [2025] EWFC 221), Cusworth J heard a heavily contested final financial remedy hearing arising from a short childless marriage.

- Background:
  - W aged 42 years is described as enormously wealthy, H aged 35 years with a net worth of £650,000 at the time the parties entered into a PNA.
  - Married in October 2019 following cohabitation earlier that year, separated in May 2023 although W's account is Autumn of 2022. H's net worth (personal wealth) according to his Form E dated September 2023 was £4.25m.
  - The parties PNA disapplies the principles of compensation and sharing. Under the PNA, H was entitled to an increasing sum based on the length of the marriage.
  - It was accepted that the duration of the marriage for the purposes of the PNA is some 4 years, which produces for the husband a lump sum of £6.4m at the marriage's end, in addition to retaining his own Separate Property, his share of any joint property, and any gain from 'seed capital' as defined in their agreement.
  - It was accepted that the total entitlement figure before any issues are considered would be £6,449,802.

Loh v Loh-Gronager [2025] EWFC 483

- The law: the test/principle in *Radmacher* and conduct under s25(2)(g) should be applied together; one goes primarily to the fair implementation of the agreement, the other to broader fairness [59]. It seems that Mr Justice Cusworth reasons that once he concludes that H's behaviour 'comfortably' crosses the s25(2)(g) threshold, any possible tension between the application of the two tests is disapplied. [60]
- Cusworth J described the husband's actions as amounting to "the most serious level of litigation misconduct that may be seen in these courts". While the judge was swiftly able to conclude that the husband's deplorable conduct merited significant sanction, he had to contend with whether this should solely be addressed in the arena of costs or also in the substance of the award made.
- Outcome:
  - Starting from the PNA entitlement of £6.45m, the court deducted:
    - £655,000
    - £2,050,417
    - £1,000,000
    - plus 50% of the £750,000 business costs (£375,000) to penalise the husband for his conduct.
    - This resulted in a final award of £2,369,385 to the husband.
  - The court indicated that there would be an indemnity costs order made against the husband, to be determined separately.

MA v WK [2025] EWFC 499



The issue: whether a non qualifying religious ceremony conducted in England can become a valid marriage, recognisable in English law, by virtue of subsequent registration in a foreign jurisdiction.

Background:

- The case concerned three applications for declarations of marital status in relation to Nikkah ceremonies conducted in England.
- In each case, the applicant had participated in an Islamic Nikkah ceremony in England which did not comply with the Marriage Act 1949 and was therefore accepted to constitute a non qualifying ceremony.
- In MA's case, the parties underwent a Nikkah ceremony in 2013, later had four children, and separated in 2022. MA relied on a Pakistani marriage registration certificate issued in 2024, recording the date of the ceremony as 2013 [5]–[6].
- In TM's case, the parties underwent a Nikkah ceremony in 1992, had three children, and separated in 2016. A Pakistani registration certificate was produced in 2025, more than thirty years after the ceremony and after the respondent had remarried [8]–[9].
- In AM's case, a Nikkah ceremony took place in 2005, followed by the birth of children and subsequent separation. No evidence of registration in Pakistan was provided [11].
- The applicants contended that registration in Pakistan was capable of creating marriages recognised under Pakistani law which should be recognised in England and Wales. The Attorney General intervened to oppose the applications.

MA v WK [2025] EWFC 499

The Law:

- Section 55(1) of the Family Law Act 1986 permits the court to make declarations as to the validity of a marriage [12].
- The formal validity of a marriage is governed by the principle of *lex loci celebrationis*, meaning that validity is determined by the law of the place where the ceremony is celebrated. Where that place is England and Wales, compliance with the Marriage Act 1949 is required [13]–[14].
- Where there is sufficient non compliance, the ceremony constitutes a non qualifying ceremony and does not give rise to a valid marriage, as confirmed in *Akhter v Khan (Attorney General and others intervening)* [2020] EWCA Civ 122 [14].

Outcome:

- The Family Court refused applications for declarations of marital status in respect of Nikkah ceremonies conducted in England which did not comply with the Marriage Act 1949. Subsequent registration in Pakistan could not convert those ceremonies into marriages capable of recognition in England and Wales. No declarations under section 55(1) were made [25].

If you want a marriage to be legally recognised in England and Wales, you must ensure that the legal requirements are met

TY v XA (No. 4) [2025] EWFC 488

- Hearing before Cusworth J concerning enforcement of financial orders, including school fees and a legal services provision order, and preservation of assets pending the husband's application for permission to appeal.
- H and W have two children together. The full details of the parties' marriage and their history are set out in TY v XA (No 2) [2025] EWFC 349.
- 'This case has a long and unfortunate history' is how Cusworth J starts his judgment.
- H also decided not to attend the hearing and instead holiday with his current wife and their children.

TY v XA (No. 4) [2025] EWFC 488

Property

- Pending determination of the husband's appeal, he accepted that the security order against the West London property held with his current wife was effective to provide at least an equitable charge against his interest in that property. Wife also sought an order for sale and realisation against the London property and an injunction and preservation order.

School fees

- H had failed to pay the older children's fees with over £44,000 being outstanding and a further £23,000 due. The wife made an application for a third party debt order against the husband's Julius Baer account to enforce previous orders in relation to school fees, or in default by means of a charge against the London property proceeds. The court found that there was no good reason why the outstanding fees should not be paid as the husband had previously accepted and acknowledged his obligation to pay. He had prioritised paying the fees of his younger children from his current marriage.

LSPO

- Wife also sought further legal services order provision. Outstanding sums to her were £28,000 and H's obligation to pay this predated the final order and had not been appealed. W sought further funding provision for the ongoing Children Act proceedings with an additional sum of £25,000. The wife had also made a fully constituted application for sums potentially running up to as much as £541,317, some of which conditional upon the outcome of the Court of Appeal decision.

H case

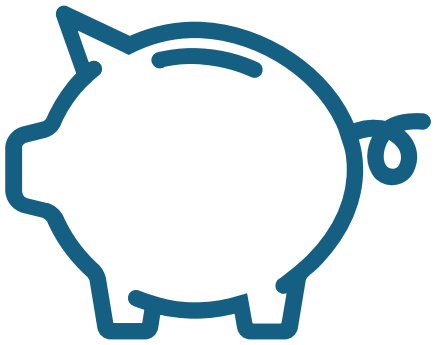
- H's case was that he could not afford to pay the outstanding amounts and there was some dispute about his financial circumstances at the hearing (liquidity and otherwise).

TY v XA (No. 4) [2025] EWFC 488

Outcome:

- Given the husband's hostility to comply with orders, the court effectively froze/injuncted the husband from utilising his ZZZ shares save for meeting the liabilities for the school fees and the unpaid LSPO.
- The court would not deal with the substantive large LSPO application pending the appeal, and in fact the husband had made yet another application to vary the previous order for ongoing maintenance provision. However, it was ordered that the husband should pay a monthly amount of such sum as he is billed by his own solicitors for work done, whether or not he has in fact chosen to pay them. Given there was an impending Children Act hearing the husband was also ordered to make an additional payment under the terms of the further LSPO in the sum of £20,000.
- The court went further and made an additional injunctive order relating to the husband's fund in the Julius Baer account, as opposed to making a third party debt order. If this was not enough security for the wife's interests in the case, the court made another injunctive order against the husband preventing him from disposing of or dealing with the value of his interest in the London property as opposed to making an order for sale at this time.

AP v TP (Pension Enforcement) [2025] EWFC 190 (B)



Background:

- The parties married in March 2015 and separated in February 2020. A final consent order was approved in April 2023, providing for:
  - the sale of the former matrimonial home, with proceeds divided 47% to the husband and 53% to the wife; and
  - a pension sharing order awarding the respondent 48.94% of the applicant's Aviva pension (CE value approximately £193,000) ([6]).
- Despite agreeing to the terms, the respondent failed to complete the pension provider's implementation forms, notwithstanding that the pension share was in her favour.
- Multiple reminders were issued, including a direct application by the applicant in July 2023 ([9e]), and court orders by DDJs Jabbour and Nicholes requiring compliance by fixed deadlines ([9f], [9l]). The respondent provided minimal engagement and failed to follow through, stating at one point that the pension 'has already been implemented' when it had not ([9k]).
- The applicant, now aged 70 and in poor health, remained unable to retire or draw the Aviva pension due to the PSO remaining in force but unexecuted. He sought to set aside the PSO.

AP v TP (Pension Enforcement) [2025] EWFC 190 (B)

Legal principles:

- In *Thwaite v Thwaite* [1981] 2 FLR 280, Ormrod LJ confirmed that where an order remains executory (not implemented yet), the court may refuse to enforce it if, at the time of the enforcement, it would be inequitable to do so ([24]).
- The principle was reaffirmed by the Court of Appeal in *Bezeliansky v Bezelianskaya* [2016] EWCA Civ 76, where McFarlane LJ observed that the circumstances justifying intervention are likely to be met 'where an order remains executory as a result of one party frustrating its implementation' ([26]).

Potential solutions:

- The court first considered varying the pension sharing order to 0 per cent, but rejected this as there is no power to vary a pension sharing order once it has taken effect and after the final divorce order.
- The court's second solution (and subsequently adopted) was to set aside the pension sharing order under the *Thwaite* jurisdiction, treating it as an executory order. In doing so, it balanced the potential unfairness to the wife against the impact of her conduct on the husband. She was given a final 28-day opportunity to comply, failing which the order would be set aside. The court expressly did not apply Barder principles.
- Finally, the court considered whether the pension sharing order could be converted into a pension attachment order, but concluded this was not possible as it would have required setting aside the clean break.

AP v TP (Pension Enforcement) [2025] EWFC 190 (B)

Outcome:

- The court held that continued enforcement of the PSO would be inequitable given the respondent's conduct, the applicant's age and deteriorating health, and the executory nature of the order.
- The judgment includes a detailed analysis of the contrast between the Thwaite and Barder doctrines and affirms the court's discretion to intervene where implementation has been obstructed post-order.
- The court awarded the applicant £20,000 in costs, reduced from £30,116.22 sought.
    - The reduction was due to part of the costs relating to the misconceived variation application, which the court had no jurisdiction to entertain. The error should have been identified earlier by the applicant's legal team. Nonetheless, the respondent's obstructive conduct was the principal cause of the proceedings and costs.

Thank you for listening

Any questions?