



No 18 Chambers

# Financial Remedies Update

John Franklin

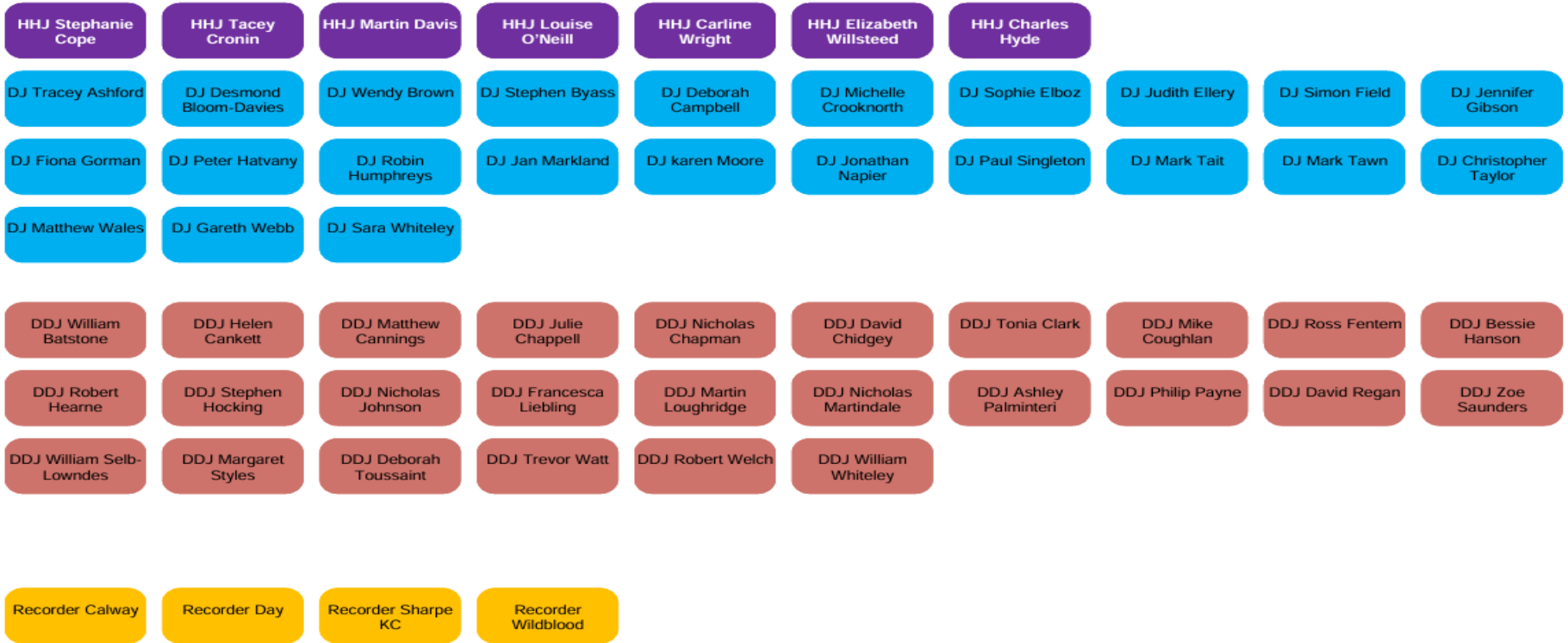
# Introduction

- First update of 2025
- Developments over the past 3 months
  - New Financial Remedies Ornoqram  
[dedb2caef9a842b1bb70e8d03afa8755](#)
  - Law Commission's Scoping Report
- Interesting recent case law
- Questions

# South West Region

Judicial Lead: HHJ Cope - L: Bristol

## The Financial Remedies Court Organogram South West Region Bristol



### Key

- Judicial Lead
- Circuit Judge
- Deputy Circuit Judge
- District Judge
- Deputy District Judge
- Recorder
- Tribunal Judge
- L = Location

## The Financial Remedies Court Organogram

South West Region  
Dorset & Hampshire

Judicial Lead: DJ Bridger  
L: Bournemouth

HHJ Christopher Simmonds

HHJ David Williams

HHJ Gillian Ellis

DJ Luke Ashby

DJ John Bridger

DJ William Emerson

DJ Amanda-Jane Field

DJ Michael Giddins

DJ Rachel Goodall

DJ Jennifer Hay

DJ Andrew Lacey

DJ William Lynds

DJ Helen Miles

DJ Lindsay Powell

DJ Kevin Pain

DJ Mark Samuel

DJ Mark Stewart

DJ Douglas Taylor

DJ Shaun Underhill

DJ Michael Veal

DDJ Mark Ball

DDJ Aaron Bailey

DDJ Ian Butterworth

DDJ Nicholas Chapman

DDJ Rupert Chapman

DDJ Tonia Clark (also Bristol)

DDJ Michelle Crooknorth

DDJ Mark Duberry

DDJ Sarah Evans

DDJ Ross Fentem

DDJ Howard Gardener

DDJ Victoria Goodfellow

DDJ Timothy Guppy

DDJ David Hebblethwaite (also Bristol)

DDJ Francesca Liebling

DDJ Nicholas Johnson

DDJ Kathryn Henry

DDJ David Lidbury

DDJ Rhiannon Lloyd

DDJ Gemma McDerimid

DDJ Stephen Nichols

DDJ Daniel Nother

DDJ Kim Parsons

DDJ Philip Payne (also Devon)

DDJ Caroline Palacio

DDJ Daniel Piddington

DDJ William Selby-Lowndes

DDJ Colin Samuelson

DDJ Trevor Watts

DDJ Clive Wiggins

Recorder Calway

Recorder Day

Recorder England

Recorder Swift

# Scoping Report

- Doesn't make any recommendations
- Highlights need for reform
- The scoping report discusses four possible models for reform of the law:
  - codifying the existing law;
  - codifying the law plus providing statutory reform on discrete issues (for example, pre-nuptial agreements);
  - introducing a set of underpinning principles and objectives to guide the court's discretion; and
  - creating a 'matrimonial property regime' that will provide rules for dividing up property on divorce, with the court's discretion strictly confined

# T v T and Others

- Recorder Chandler criticised W's team for
  - Failing to serve a PS by 11am the day before the hearing
  - Highlighted that arguably it should have been served on a Lip 3 days before the hearing
  - Exceeded the 350-page bundle limit by 2,400 pages
  - Highlighted the need for practitioners to have clarity on their client's case from an early stage
  - Statement of Efficient Conduct of Financial Remedies Proceedings

# Statement of Efficient Conduct

- 14 days before the First Appointment the parties are to file a joint (or if impossible separate) market appraisal value of the FMH.
- 14 days before the First Appointment the parties should use their best endeavours to file no more than 3 sets of property particulars and joint (or if impossible separate) details as to mortgage capacity.
- Questionnaires should not exceed four pages and longer questionnaires are only likely to be approved where justified by “complexity” (including alleged non-disclosure).
- 1 day before the First Appointment the applicant must file a composite case summary and composite schedule of assets and income based on the figures in the Forms E on the approved templates.

# SOEC Ctd

- The date for the final hearing may be fixed at the First Appointment.
- 7 days before the FDR Appointment the applicant must file an updated composite case summary and composite schedule of assets and income.
- 7 days before the FDR Appointment the applicant must file a composite and “neutral” chronology.
- A timetable for the final hearing must be prepared either at the PTR (which will be listed in every case where the final hearing has a time-estimate of 3 days or more) or at the directions phase of an unsuccessful FDR Appointment.



# SOEC Ctd

- 7 days before the Final Hearing the applicant must file an updated composite case summary and composite schedule of assets and income.
- Court bundles are limited to 350 pages (absent a specific prior direction from the court). They must be filed not less than two working days before the hearing. They must contain the parties' Forms H or H1 (where applicable).
  - Position statements are to be no longer than 6 pages at First Appointment (including attached schedules), 8 pages for an interim hearing, 12 pages for an FDR Appointment and 15 pages for a final hearing.
- The order should be agreed and lodged (if at least one of the parties is legally represented) before leaving court.
  - The date for the next hearing shall be fixed with the court and stated in the order before the parties leave court.

# ON v ON [2024] EWFC 379

- Useful summary of law on full and frank disclosure:
  - Duty commences from date Form E is due and continues until conclusion of proceedings (N v N [2014] EWCA Civ 314)
  - Normally conclusion is judgment (Rose v Rose [2002] EWCA Civ 208)
  - Extends to appeal? (N v N) Not answered.

# ON v ON [2024] EWFC 379

- Arbitration award when made is in principle and binding (BC v BG [2019] EWFC 7).
- Notice to show cause needed to challenge [2015] UKSC 14.
- Haley v Haley [2020] EWCA Civ 1369 – no need for application under Arbitration Act 1996 before asking the court to decline making an order under MCA 1973.

# ON v ON [2024] EWFC 379

- Arbitration award when made is in principle and binding (BC v BG [2019] EWFC 7).
- Notice to show cause needed to challenge Wyatt v Vince [2015] UKSC 14.
- Haley v Haley [2020] EWCA Civ 1369 – no need for application under Arbitration Act 1996 before asking the court to decline making an order under MCA 1973.

# ON v ON [2024] EWFC 379

- Arbitration award when made is in principle and binding (BC v BG [2019] EWFC 7).
- Notice to show cause needed to challenge [2015] UKSC 14.
- Haley v Haley [2020] EWCA Civ 1369 – no need for application under Arbitration Act 1996 before asking the court to decline making an order under MCA 1973.

# MacQueen v MacQueen EWFC 400(B)

- Summarises principles for deciding to award spousal maintenance in his judgment (SS v NS paragraph 46):
  - Where choices made during the course of the marriage have generated hard future needs on the part of the claimant / the applicant.
  - Duration of the marriage and the presence of children are pivotal factors.
  - Awards should be made by reference to need. Except in the most exceptional circumstances, it is not (I add) a case of saying, "Well, the husband is earning this, and can afford to pay this, so he just should pay that". It is a question of what is the need of the applicant. Because it represents a departure from the principle of a clean break.
  - I have to consider whether the needs are causally connected to the marriage, and I have got to consider terminating maintenance at the earliest possible point. As soon as it is just and reasonable is the test.
  - The standard of living in the marriage is relevant but not decisive. The essential task is not merely to examine the individual items in the claimant's budget, but to stand back and look at the global total and ask if it represents a fair proportion of the respondent's available income which should go to support the claimant.
  - Where there is a base salary and discretionary bonus, or potentially sales commission, the award may be equivalently partitioned, the needs of strict necessity being met from the base salary, and additional discretionary items being met from the bonus on a capped percentage basis.
  - It does not have to be exceptional to extend a term of an order.

# Juffali principles

- The first consideration in any assessment of needs must be the welfare of any minor child or children of the family.
- After that, the principal factors which are likely to impact on the court's assessment of needs are:
  - the length of the marriage;
  - length of the period, following the end of the marriage, during which the applicant spouse will be making contributions to the welfare of the family;
  - the standard of living during the marriage;
  - the age of the applicant; and
  - the available resources as defined by section 25(2)(a)
  - There is an inter-relationship between the *level* at which future needs will be assessed and the *period* during which a court finds those needs should be met by the paying former spouse.

The longer that period, the more likely it is that a court will *not* assess those needs on the basis throughout of a standard of living which replicates that enjoyed during the currency of the marriage.

- In this context, it is entirely principled in terms of approach for the court to assess its award on the basis that needs, both in relation to housing and income, will reduce in future in an appropriate case.

# Segal Orders

- Court only has jurisdiction to make orders for child maintenance where:
  - CMS doesn't have jurisdiction
  - The parties agree a child maintenance order by consent
  - The order is of a prescribed type:
    - E.g. Top order orders or for costs attributable to a disability.



# Segal Orders

- Where court has jurisdiction to make a spousal maintenance order the ct may combine payer's obligation to pay child and spousal maintenance into a global order (AB v CD)
- If the child maintenance order is terminated by a CM assessment, the spousal order will be varied automatically
- Founded on s. 23 MCA 1973

# Segal Orders

- Anticipated CM Assessment being made and operate to avoid the need to return to court to vary the spousal maintenance order.
- Don't oust the CMS jurisdiction merely hold matters until assessment
- Can be made without consent.
- Made early on in proceedings in MPS apps or for Interim PP's as a short-term measure.
- Must be a substantial spousal maintenance element.
- Failure to apportion does not constitute a reason to set aside (AB v CD)

**Any Questions?**

**N<sup>o</sup> 18**

---

**BARRISTERS CHAMBERS**