

## Considerations prior to issuing proceedings

**Jurisdiction:** Consider whether the court will have jurisdiction to consider your claim or whether maintenance will be dealt with by the CMS.

**Consider non-court based solution:** e.g. mediation, collaborative law, arbitration or solicitor led negotiation.

### If you intend to proceed with court:

Compulsory attendance at a MIAM is required (unless an exemption applies). Consider and comply with the pre action protocol before issuing proceedings

### Consent order

An agreement can be reached at any time during the court process and finalised by the making of a consent order.

A draft order is submitted to the court for judicial approval.

## Court process

The court process will vary depending upon the remedy sought .

**Fast track procedure** – If the remedy sought is an order for periodical payments (including top up maintenance or school fees) or for a variation of a periodical payments order.

**Standard procedure** – For all other applications under Schedule 1.

Submit the application to court using the following prescribed forms:

**Form A1** – If the remedy sought is an order for periodical payments or for variation of a periodical payments order

**Form A** – For all other applications under Schedule 1

## Standard track procedure

**Form A** – Complete the Form A and submit to court with the relevant fee.

The Court will issue and serve the proceedings upon the respondent directly or the respondent's legal representatives.

The Court will send an order to both parties confirming:

- 1) Date for exchange of financial disclosure (Forms E)
- 2) Date for various other documents to be prepared and filed at court; and
- 3) Date for first appointment, which should be in 12–16 weeks' time.

## Fast track procedure

**Form A1** – Complete the Form A1 and submit to court with the relevant fee.

The Court will issue and serve the proceedings upon the respondent directly or the respondent's legal representatives.

The Court will send an order to both parties confirming:

- 1) Date for exchange of financial disclosure (Forms E1) (if not specified, Forms E1 to be exchanged 21 days after the date proceedings are issued)
- 2) Date for first hearing, which should be in 6–10 weeks' time.

### Case management

The Court will actively manage a case and procedures may vary depending on the circumstances of the case. Interim hearings may be required.

## First Appointment (FA)

**At least 35 days before the hearing:** Both parties file and exchange Forms E

**At least 14 days before the hearing:** Each party is entitled to send to the court and each other:

- 1) Questionnaire; 2) Statement of Issues; 3) Chronology; and
- 4) Form G (notice of whether they are ready to proceed straight to FDR)

**At least 1 day before the hearing:** Parties must file a costs estimate (Form H)

If any expert evidence is needed, a Part 25 application should be made before the hearing.

## First Hearing (FH)

**Not more than 21 days after the date that the application is issued:** Both parties file and exchange Forms E1.

**Hearing:** If the court is able to determine the application at the first hearing, the court must do so, unless there is a good reason.

If the court is unable to determine the application, it may use the first hearing, or part of it, as an FDR appointment.

If the matter is not determined, it can: provide further directions and/or list the application for an FDR, a directions hearing or a final hearing.

### Costs

The general rule for Children Act 1989 applications that there is "no order as to costs" does **not** apply to Schedule 1 proceedings. This means that you could be ordered to pay the other party's costs in particular circumstances.

## First Dispute Resolution appointment (FDR)

**No less than 7 days before the FDR:** the applicant must file with the Court details of all offers (open and without prejudice) between the parties.

**Not less than 1 day before the FDR:** Parties must file and serve and updated costs estimate (Form H)

If settlement is reached, a consent order may be approved by the Court.

If settlement is not reached, the court will make further directions (including narrative statements) and a final hearing will be listed.

## Final Hearing

**Within 21 days of the FDR or within the timeframe ordered by the Court:** The parties are to make an "open settlement offer"

**No less than 14 days before the Final Hearing:** Each party must file and serve a costs estimate (Form H1).

**At the hearing:** the judge will hear evidence from each party and any experts and make a final order, including any order in relation to costs.