



Barristers' Chambers

www.ashleymurraychambers.co.uk

Private FDR Remote Hearings – Reduced Fixed Fee Update

A. Reduced Covid-19 FDR Fee:

Substantive family finance cases are, as with all other cases across the Court Divisions, in the aftermath of the Covid-19 pandemic now significantly delayed and are likely to continue to be so well into the 2022. Unfortunately, this will have serious family, financial and emotional consequences for divorcing couples about to be or already engaged in divorce proceedings.

The take up of the Private FDR hearing has to date been limited on the Northern Circuit, whereas in other parts of the country and notably in London and the South, the process has already become a more established alternative. This difference probably reflects a mixture of both a lack before the pandemic of any significant existing case backlog on the Northern Circuit and the understandable anxiety of many couples choosing to incur yet more costs by such procedures when they had already engaged the reasonably efficient Court Service locally. Let's face it too - the cost of a Private FDR Judge of sufficient experience and standing is regarded as high.

The reality of the current long waiting lists has undoubtedly now altered this uncomfortable balance and the advantages of a Private FDR hearing in offering very early disposal dates, a judge available all day exclusively for the parties' hearing and the avoidance of the corrosive and extensive post Covid delay with its attendant rising legal costs - hardly requires spelling out.

In addition, the emergency introduction of Financial Remedy Remote Hearings has made the concept of the Private FDR even more adaptable to the parties' circumstances.

It has been signalled that the President will imminently approve **FPR 2010 Rule changes**, whereby at every hearing stage from Financial Directions hearings onwards, not only will parties be reminded about the alternative out of court disposal methods available, including Private FDRs, but positively required to explain why such a route has not been adopted in their case.



Accordingly, in line with the present increased need for parties to consider a Private FDR - until further notice, Ashley Murray Chambers will substantially reduce Ashley Murray's fees down to a fixed fee of just £2,250 plus vat (ie £1,350 per party including vat) for a private FDR Remote hearing to represented parties in cases where the combined Non Pension and Pension asset values do not exceed £4m.

Ashley Murray Chambers will welcome any enquiries for applicable Fees for Private FDR hearings above this net value.

B. The Advantages of a Private FDR by Ashley Murray:

The advantages of a Private FDR hearing conducted by Ashley Murray are that:-

- a) he was the first barrister on the Northern Circuit over 25 years ago to accept instructions only in divorce financial remedy work and, thereby, has experience of exclusively dealing with such work longer than any current sitting judge, Queens counsel or junior counsel on the Northern Circuit;
- b) he has experience of sitting as a Recorder for over 27 years and in 2012 he was uniquely authorised by Peter Jackson J (as he then was) to adjudicate upon divorce financial remedy hearings and appeals from district judges;
- c) he has over the last two decades been ranked No 1* junior counsel by the national legal directories for his divorce financial remedy practice and in 2020 was described by Legal 500 as "*Godfather of the Northern Circuit for matrimonial finance*";
- d) he was the original protagonist and campaigner for the 'Money Judge' system operated on the Northern Circuit which he helped instigate in liaison with Ryder J (as he then was) and which has now been incorporated into the new Financial Remedy Court;
- e) he is co-author of a standard legal textbook dealing with prenuptial agreements;
- f) he has lectured within the UK and Australia upon divorce financial remedy and pre and post marital agreement subjects;
- g) he has had numerous articles published in the Family Law Journal and elsewhere on financial remedy issues over the last 22 years;
- h) he provides regular Updating materials to solicitors and local judges on legal cases and developments.



C. Eight Step Process:

In the event of represented parties wishing to book Ashley Murray to undertake a Private FDR remote hearing at the reduced fixed fee above, the lead solicitors shall:-

- Step 1:** confirm to Ashley Murray Chambers, initially by telephone to 0151 559 3285 / email to ashley@amchambers.co.uk (followed by the written joint confirmation of both parties solicitors) that:-
- i) both represented parties wish to proceed by way of a Private FDR remote hearing; and
 - ii) in brief summary detail confirm the basic Non Pension and Pension net value of the case does not exceed £4m; and
 - iii) the likely dates of the parties' joint availability for such a hearing within a window of up to 6 weeks of the request made;
 - iv) the Private FDR hearing Agreement available for download at www.ashleymurraychambers.co.uk has been read and understood by both parties and their solicitors and that all applicable parties are willing to sign the same;
- Step 2:** agree with Ashley Murray Chambers by telephone/email the date and time of the Private FDR remote hearing and that the same shall be conducted by the remote platform of Microsoft Teams or an agreed alternative. Any agreement to an alternative communications platform and/or any necessary telephone numbers, email addresses and the identities of those persons who are to take part to be reached/provided at this stage.
- Step 3:** if Court proceedings have already commenced, make an accelerated application to the Court to adjourn the pending court proceedings for financial remedy to a fixed return directions hearing date for the purposes of obtaining the Court's approval to the draft order of the Private FDR terms of settlement reached or, in the event the Private FDR proves unsuccessful, to give directions listing the matter for a final hearing.
- Step 4:** deliver the parties' signed Private FDR Agreement (see Form on www.ashleymurraychambers.co.uk) to Ashley Murray Chambers and make



full payment of the Private FDR fixed fee plus vat (ie £2,700 including vat) not less than 7 days before the booked hearing date

- Step 5:** forward on behalf of both parties to Ashley Murray Chambers not less than 3 working days before the date of the Private FDR hearing the required documentation and advocate's written submissions (see more below) and a confirmation by email that they have provided all applicable parties and legal representatives with an accepted Remote hearing video link for the Private FDR hearing.
- Step 6:** at the time agreed for the commencement of the Private FDR hearing ensure that all parties are connected and available for an initial welcome session by Ashley Murray and an appraisal as to the appropriate framework to the hearing and the times required for further discussions during the Private FDR period engaged.
- Step 7:** at the conclusion of the Private FDR hearing (10am to 4.30pm with a minimum break of 30 minutes for lunch) - if settlement has been reached - ensure there is a draft order or Heads of Agreement signed by all parties and Ashley Murray OR (in default of settlement being reached) ensure there is a draft of the letter signed by the parties to the Court for a Consent directions order required to list the matter to a final hearing AND that the parties can agree any further directions needed over valuations and /or remaining issues.
- Step 8:** file by consent of both parties and their solicitors with the Court a short summary of the conduct/outcome of the Private FDR hearing and a joint draft order of the terms of settlement reached and, if no settlement has been achieved, the directions sought, including any suggested by Ashley Murray as Private FDR judge, to a final hearing.

D. And Finally – Some Fine Print:

- In the event that the parties shall jointly at the Private FDR hearing request Ashley Murray to extend the hearing beyond the stated times above (ie 10am to 4.30pm), there will be an additional fee per each hour (or part thereof) of £250 plus vat payable by the parties' solicitors (jointly and severally) to Ashley Murray Limited within 7 days of the Private FDR hearing;



- In the event of the Private FDR reduced fixed fees not being received and paid and/or the parties having not signed a Private FDR hearing Agreement in the time limits stated as above, the matter shall be immediately vacated from Ashley Murray's diary and he shall be under no further obligation to undertake a Private FDR hearing between the parties;
- In the event of Ashley Murray reasonably determining that he is unable to proceed or continue with the Private FDR hearing, including where the same is caused by a loss of the communications platform for whatever reason or either party's or their legal representatives' non attendance or either parties' failure to comply with the FDR preparation and procedure under the **FPR 2010** or the failure of either party or their legal representatives to comply with the conditions set out in the signed FDR Agreement, Ashley Murray's paid fee will be non-returnable;
- In the event that Ashley Murray is for whatever other reason, including by reason of his or his family's personal illness, reasonably unable or prevented from conducting the Private FDR hearing, his and Ashley Murray Limited's only liability whatsoever to the parties and their legal advisors shall be the return of the Private FDR hearing fees paid as above;
- The "Required documentation" referred to as above shall be:-
 - i) the bare FDRs, if already filed,
 - ii) any questionnaires and replies thereto,
 - iii) an agreed schedule of up to date net assets and net incomes with any reason for disagreement and alternative figures arising thereby endorsed briefly thereon;
 - iv) an agreed statement of resolved issues and outstanding issues;
 - v) an agreed neutral chronology;
 - vi) copies of any relevant valuations;
 - vii) copies of any SJE reports
 - viii) copies of any relevant up to date company accounts and/or trust documents
 - ix) copies of any without prejudice offers to settle made by either party;
 - x) written submissions (not exceeding 10 pages A 4 Roman 12 spacing 1.5) of the advocates presenting the parties' cases at the hearing, inclusive of a "net effect" summary;



xii) without Ashley Murray's prior written agreement any such Bundle of "Required documentation" shall not include any other documentation and shall not in any event exceed 350 pages.

Ashley Murray Chambers, Liverpool

April 2021.