The Divorce Manual

<u>Guide-How to complete your Financial Statement (press the blue links for videos)</u>

Introduction

In this guide and video series I want to share with you my 30 keys to help you successfully complete your financial statement (sometimes known as a Form E albeit with some important differences) before

You have decided to come to mediation with your former partner to reach a fair financial settlement and the mediator has asked you to complete and send them a Financial statement

Although it may look long, the form is largely self-explanatory so I will try to avoid explanation where it is obvious what the form is asking for.

Please remember that your financial statement is not designed to be completed in one sitting!

My aim is not to make your life any more difficult and stressful than it already is!

Oh yes, I should say that you can always consult with your solicitor, accountant or financial adviser/planner to help you with this form if you cannot find what you are looking for in our Divorce Manual or simply feel that you need additional support.

Have a look at the Divorce Manual chapters- **solicitor supported mediation, pensions in divorce and business interests** and sections aimed at helping you with your financial statement, if you need it.

You will also find some very useful information in the Divorce Manual chapter about what is meant by a **Full and Frank financial disclosure**.

So, here goes and onto Part 2 of the form.

True to my word about not explaining the obvious, I do not intend to say anything about Part 1 of your financial statement which primarily asks for names and dates. Instead, I move straight on to Part 2: **Realisable assets**, in the hope that Part 1 of the form is self-explanatory

Part 2- Realisable assets: An introduction

Key 1- **Financial evidence.** Although the mediator will not need or want to see most of the financial evidence you have based your figures on in your financial statement would you please keep this evidence so that you can quickly and easily provide it if requested by your ex, their solicitor or, indeed your own solicitor.

Key 2- **Accurate and up-to-date information**. Please ensure that the financial figures you provide are as **<u>up-to-date</u>** as possible recognising of course that the figures for things such as shares and bank accounts balances will fluctuate on a daily basis. These can always be quickly updated as and when necessary as mediation progresses.

Key 3- **Working together**: Try to co-ordinate the collection of information with your ex if your communication is good enough and especially where this information relates to assets or liabilities in your joint names.

One advantage of having a mediation session before you begin to complete your financial statements is that you and your former partner can decide who is going to collect which bits of information and which documentation, especially when it comes to jointly owned assets.

This could save you time and money and minimise the risk that you will both end up duplicating some of the work and spending more than you need to obtaining valuations.

Discuss the different approaches with your mediator.

Property valuations

Key 4- Avoid being positional, in approach: Please do not fall into the trap of one of you trying to get property valuations as high as possible, often the one hoping to be bought out, and one of you trying to keep the valuation as low as possible, usually the one wanting to remain in the property.

This polarising pressure is likely to significantly reduce if of course the intention is to sell the property since then it would simply depend on what a someone is willing to pay for it.

Key 5- **Estate agent appraisals are not the same as full property valuations** carried out by a property surveyor. In most cases, appraisals are free whereas the latter can cost £100’s or even £1000’s.

Key 6 -Ideally, **collaborate with your former partner to obtain a few estate agents appraisals** of the value of each property and, if possible, agree a value for each property based on these appraisals before you come to mediation, based on the evidence you have both gathered and perhaps discussed.

Key 7- **A realistic sale value is not necessarily the same as the amount the property is put on the market for**. The Financial statement is asking for a realistic or likely sale value.

It is worth keeping in mind that the aim is for you both to obtain sufficient independent expert evidence of how much the property is likely to sell for, collaboratively if you can, giving you both enough confidence to be able to agree a figure to base your financial settlement on in mediation.

The price of failing to work together in mediation to agree valuations is that you might be left having to instruct your solicitors to jointly select and instruct a chartered surveyor to carry out a full valuation which is likely to cost you many hundreds of pounds.

Key 8**- Ensure that the mortgage details are accurate and up to date** including the type of mortgage (repay, interest only, fixed rate), details about any mortgage redemption penalty, which may or may not become payable depending on what you and your ex decide to do with the house and mortgage and, of course, an up-to-date redemption figure and term left on the mortgage.

It is too easy to omit some of this information believing that it will not be needed. The chances are that it will be needed and you will then have to spend time later on getting hold of it.

Key 9- **Do not forget about a CGT calculation** if the property is an investment property or, for example, you left the former family home some time ago triggering a CGT calculation. Start by using the CGT website checker linked to our Divorce Manual as well as check with your accountant

Remember that the aim of this section of the financial statement is to work out the 'net equity' of each property, assuming a sale.

Key 10- **You do not have to accept that sale costs will amount to 3% of the sale price** if you can both agree an alternative figure based on evidence obtained about the likely estate agents commission and vat and solicitors costs, disbursements and vat.

Current and saving accounts

Key 11- For mediation purposes, **you do not necessarily need to provide each other with 12 months bank statements.** It will depend on the context and whether why it might be necessary to do so.

'Proportionate' and 'relevant' are two words to bear in mind when considering what evidence to ask for in support of the figures in the financial statements.

For example, if you wish to use mediation to discuss maintenance, which will involve a discussion about monthly expenditure, you may want to base your calculations on figures derived from 6 or 12 months bank statements. It all depends on context.

Key 12- **Make sure that you disclose every bank account, however small.**

You must try to avoid your bank statements disclosing the existence of other accounts which have not also been disclosed. This may fuel suspicion that other assets have not been disclosed so please make sure that every bank account, however small the balance, is disclosed and supported by some evidence, even if it is £1 !

Key 13- **Please validate your request for more statements explaining why** you feel you need these rather than simply saying that the process requires them or your solicitor requires them which may be true but this approach and attitude is likely to lead to a lot of frustration.

"Would it be possible please for you to provide X, Y, Z because it will help me understand A,B, C"

Key 14- It is often helpful in mediation to explain **the background to the money in particular accounts and/or their purpose** which the mediator can note in mediation summary and raise again should it be relevant when it comes to exploring your financial options in relation to these accounts.

For example, it might be the case that some money in an account has been put aside for tax.

Key 15- **Please provide the last 3 digits of each account** to avoid confusion between accounts.

Other investments

There is not much to say about this section. These investments can resemble a bowl of different types of fruit in that there may be a range of different types of assets with different values.

Key 16- Provide the figures you believe the form requires but **be ready and open to discuss more details about your investments** in mediation so that they can be discussed with accuracy when it comes to exploring your financial options for their division.

At this stage, simply do your best to ensure that the figures are accurate, up to date and that you are able to provide documentary evidence, if possible, when asked for.

Cars

Key 17- **When it comes to the value of cars** remember that it is their second-hand value or sale value that is needed. The easiest starting point is an online valuation from one of the many online services such as Autotrader, Parkers guide or Webuyanycar.

Insurance policies

Key 18- Distinguish **life policies with surrender values from life policies with no surrender value.** The latter are simply designed to pay out in the event of death or some other insured event.

That said, it is also worth identifying all life policies whether they have a surrender value or not so that a decision can be made in mediation about what to do with these.

Key 19- Also it could be useful to obtain the **projected maturity value** of any endowment policies or 'with profit' policies so that you and your former partner can decide whether or not it is worth keeping the insurance policy going, to benefit from any bonus at the end of the insurance term, if one is paid and if so, who is going to pay the insurance premiums and whether or not to assign the benefit of the policy from one of you to the other or both of you to one of you, if it is a joint policy as part of your financial settlement.

You will not be able to explore these options without having this information.

This principle goes for all the information you are collecting.

Essentially, you will need to collect enough information and documentation to be able to explore a wide variety of financial options, with your former partner, when the time comes.

Pensions

Key 20- Send forms P, BR19 and BR20 to the relevant pension organisations as soon as you can. You will find reference to these in the Divorce Manual chapter about Pensions in Divorce and find the forms themselves on the website.

The information you get back from your pension organisations will be a good starting point and provide you with information you need to be able to complete this section of your financial statement.

If additional pension information is needed for any reason, this can be discussed in mediation when you look at your pension options and whether a pension expert will need to be instructed.

If you wish to learn more about pensions and options on divorce please read the chapter of the Divorce Manual about pensions on divorce and the guides provided.

Business assets

Key 21- If you own any business interests such as shares in a family business, **you will need to provide a value for this interest.** This could be a Consultancy, Trading or Investment business, for example.

Please ask your mediator for the 'Business assets and Directorship' appendix to complete which is referred to in the form*

Let me say a bit more about business interests because some couples can become very stuck at this stage, with the person owning the business interest feeling that it is under threat and their former partner believing that their ex does not intend to be fair when it comes to the value of the business interests and, before you know it, things get out of hand.

Key 22- It is rarely worth spending too much time or money at this stage obtaining a business valuation.

I say this because **you and your former spouse will need to discuss and agree an approach in mediation to valuing the business interest** and ultimately agree on whether a business valuation needs to be obtained and, if so who is to prepare it so that you both have a value to work with in mediation.

Key 23-**. It may become necessary to involve a neutral accountant**, someone who has not been previously involved in your affairs, to value the business interest, so that you and your former partner are able to agree a value that is accurate, impartial and appropriate for divorce purposes. The aim will be to do this as **cost effectively and collaboratively as possible**

This can be discussed together early in mediation when you come to discuss the mediator's financial summary.

If you wish to learn more about your options relating to business interests please read the Divorce Manual chapter about business interests and divorce.

Personal belongings and Other assets

Key 24- I do not recommend that you go to town listing all belongings of more than £500 at this stage.

More often than not, people in mediation are able to **agree a pragmatic and sensible approach** to dividing up their personal and household belongings without the need for listing these extensively in the financial disclosure form.

Anyway, it is worth remembering that we are talking about the sale or second value here and not the replacement value.

Therefore**, unless you have any belongings worth a significant sum**, you may feel it more sensible to leave this subject, which can often be quite emotive, to a discussion in mediation.

Key 25- **Do not overlook the notes at the bottom of this section relating to any other assets in which you have an interest.**

I know that it goes without saying but please be completely honest and transparent about your financial circumstances or risk suspicion that you are trying to hide something.

When trust may be at a deficit already, further suspicion can be pervasive and very damaging to the spirit of mediation.

Moving swiftly on to the remaining parts of the financial disclosure booklet beginning with liabilities.

Part 3: liabilities

Key 26- Please do not forget about monies owed to family or friends and be ready to provide documentary evidence of these such as a letter or sworn statement from the person you owe the monies to or the loan contract if one exists.

Other than this, it is worth thinking about whether there is any information or documentation about your liabilities which might be relevant and important to know when it comes to exploring the options for dealing with these in mediation such as what the monies were spent on or, for example, whether you both benefitted from the monies borrowed even if the liability is in one of your names.

Although the financial statement does not ask for this additional information it may become important when you come to explore your financial options in mediation.

Key 27- **When it comes to your tax liability**, please distinguish for example between outstanding tax owed by you personally such as income tax and national insurance and tax owed by your business such as Corporation tax and VAT. **This section is asking whether you have an outstanding personal tax.**

Part 4: Income and outgoings

Key 28- Please read the Divorce Manual chapter and/or watch the series about how to reach your own maintenance agreements because even if there is not going to be any ongoing maintenance payments this information will tell you how to properly complete your income and expenditure schedule.

Part 5: Other Information

In my view this should say other **'relevant'** information, relevant to your discussions about reaching a fair financial agreement.

Contributions

The section about contributions often receives a great deal of attention from separating couples because most people naturally want to ensure that their financial and non-financial contributions to the marriage will be taken into account.

Key 29- Simply highlight and **describe in summary any contributions** which you feel ought to be discussed in mediation without prejudging the extent to which they will be.

The truth of the matter is that for mediation to succeed, you and your former partner will both need to feel that enough of the things that are important to each of you are taken into account in reaching your agreement. This will include your respective contributions to the marriage, financial or otherwise.

As for the **tick list of other factors**, it is again true that unless you and your former partner ultimately feel that enough of the things you have ticked receive sufficient attention in mediation and are 'factored' into the financial outcome you reach, you are unlikely to be successful in mediation.

Key 30- At this stage, simply highlight which of these factors you would like to raise and discuss in mediation.

Summary

I hope that you have found these 30 keys helpful in completing your financial statement.

Please remember that this is only your first attempt at providing the information required for mediation.

The mediator will create a financial summary from your financial statements and discuss their summary with you both in mediation ensuring that if either or both of you (or your solicitors) need any more information or documentation you will have an opportunity to ask for and provide this after the mediation session, within an agreed timeframe.

Also, please remember that the ultimate objective is a Full and Frank financial disclosure before you can move into the next stage of mediation and discuss your financial options.

If you are struggling to find the relevant parts of our Divorce Manual which I have referred to please ask your mediator for help.

Good luck.

John E Hind- Author of the Divorce Manual