PRESIDENT OF THE FAMILY DIVISION

PRESIDENT'S CIRCULAR

FINANCIAL REMEDIES COURT PILOT PHASE 2

1 Following the successful initiation of the Financial Remedies Court project in the West Midlands (part), centred at Birmingham, I am pleased to announce a further roll-out of the pilot, albeit for the time being in modified form.

2 With effect from dates in the near future, to be agreed in each case between the relevant FRC lead judge and HMCTS (nationally and locally), the pilot, in this modified form, will be extended to:

a. East Midlands, centred at Nottingham.
b. The whole of the West Midlands (including but not limited to the part in the initial pilot).
c. Cheshire and Merseyside, centred at Liverpool (the extension of the pilot to Cheshire and Merseyside will enable the locally developed financial remedy protocol to be placed on a more formal footing and enhanced).
d. North-east (1), centred at Sheffield.
e. North-east (2), centred at Leeds.
f. North-east (3), centred at Newcastle.
g. London, centred at the CFC.
h. South-east Wales, centred at Newport.
i. South-west Wales, centred at Swansea.

The precise dates and sequence have yet to be determined, but the first are likely to be (a), (g) and (h).

3 For the time being, these further extensions will *not* involve the creation of any specified designated hearing centres and judges hearing financial remedy cases will *not* be expected to sit elsewhere than where they currently do. Cases will continue to be heard, as at present, in the premises currently used by the Family Court.

4 The precise boundaries of the pilot zones are as set out in the schedule to this circular.

5 For the time being, Forms A and applications for consent orders will continue to be processed in the regional divorce centres. The reason for this is that work is being undertaken by HMCTS to enable these applications to be issued and processed online. This work is well-advanced. I am satisfied that it would be wasteful to initiate a new, different, manual process for these applications when they are likely to be replaced by an online process in the reasonably near future.

6 As presently happens in the West Midlands (Black Country), a Form A once issued in the regional divorce centre will be transmitted to the regional hub for allocation to the right judge at the right level in the right place.

"Private" FDRs

7 I hope that the lead and other judges will take the opportunity to develop and encourage the use of "private" FDRs locally. A private FDR is a simple concept. The parties pay for a financial remedy specialist to act as a private FDR judge. That person may be a solicitor, barrister or retired judge. No additional qualification is required. The private FDR takes place at a time convenient to the parties, usually in solicitors' offices or barristers' chambers, and a full day is normally set aside to maximise the prospects of settlement. It takes the place of the in-court FDR.

8 At present, demand on court resources has led to instances of over-listing of FDRs. A high settlement success rate is not likely to be achieved if the district judge's list for the day has more than five FDRs in it. This has the inevitable knock-on of far more cases being listed for a final hearing than should be so – a classic example of the law of diminishing returns.

9 Although a private FDR does require some (often quite modest) investment by the parties, this expense can be greatly outweighed by the advantages gained. The very fact of investment by the parties will signify a voluntary seat at the negotiating table rather than a sense of being dragged there. The "hearing" can take place at a time convenient to the parties, even in the evening or at a week-end, and for as long as the parties want. The private FDR judge will, by definition, have been given all the time needed to prepare fully for the hearing.

10 Anecdotal evidence suggests that private FDRs have a very high settlement rate. Of course, each settlement frees up court resources to deal, sooner and more fully, with those interim and final hearings that demand a judicial determination.

11 Usually, where the parties have agreed to a private FDR the order made at the first appointment will record such an agreement in a recital, and will provide for a short directions hearing shortly after the date of the private FDR. That directions hearing can be vacated if agreed minutes of order are submitted following a successful FDR. If it has been unsuccessful then directions for the final hearing can be given. An alternative is for the case to be adjourned generally while the private FDR process takes place. In that event an order in the terms of para 81 of standard order No. 1.1 would normally be made.

James Munby, President of the Family Division

27 July 2018

The Schedule

Pilot	Centre	Covering the following DFJ areas	FRC Lead Judge
East Midlands	Nottingham	Nottingham Derby Leicester Lincoln	HHJ Rogers
West Midlands	Birmingham	Birmingham	HHJ Rowland

		Coventry Wolverhampton Worcester Stoke	
Cheshire/Merseyside	Liverpool	Liverpool	HHJ Greensmith
North-east (1)	Sheffield	Sheffield Hull	DJ Rogers
North-east (2)	Leeds	Leeds York	DJ Wood
North-east (3)	Newcastle	Newcastle Teesside	DJ Shaw
London	The CFC	CFC East London West London	HHJ O'Dwyer
South-east Wales	Newport	Cardiff	HHJ Furness QC
South-west Wales	Swansea	Swansea	HHJ Sharpe