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Financial Remedies Case Law Update

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A financial remedy case concerning the Husband's deliberate failure to provide full and frank financial disclosure, his persistent non-compliance with court orders and his ultimate failure to attend the final hearing. The court drew adverse inferences from the available evidence, made a £110,000 lump-sum award in favour of the Wife and ordered the Husband to make a further payment to the Access to Justice Foundation in respect of the incurred costs.

HJ V QY [2026] EWFC 245 (B)

Background

The parties married in April 2018 and separated in 2021. W was in her mid-thirties and H in his early forties. During the course of their marriage, they had one child together, now aged seven. Post-separation, following the making of a 'lives with order', the child lived with W. The child's interaction with H was limited to video contact. At the time of judgement, W asserted that H was in arrears of child maintenance exceeding £35,000.

W issued her Form A in September 2023. Whilst the parties remained legally married in the UK, in June 2025, H engaged in a religious ceremony to a new wife. Despite the relatively modest nature of the parties' finances, the proceedings became exceedingly protracted, involving at least 15 hearings before various judges, of varying levels of seniority including Recorders, Deputy District Judges and a Circuit Judge.

The delays were attributed primarily to H's disengagement and obstruction. H attended a negligible number of the hearings resulting in a number of adjournments and the threat of contempt proceedings. He repeatedly failed to provide accurate financial disclosure, necessitating multiple third-party disclosure applications against various organisations including his bank. Nevertheless, W persevered in obtaining the necessary information about H's financial position.

Prior to the final hearing, H had been debarred from giving evidence, with the court indicating that any evidential uncertainty could be resolved through inferences drawn in W's favour. H also failed to attend the final hearing, which the judge deemed, in the circumstances, to be a voluntary absence.

Why did the judge decide to publish this judgement?

At first glance, this may not appear to be a particularly unusual case. However, the judge identified and set out several reasons for publication including, but not limited to, H's failure to attend the final hearing, the fact that the matter had involved over a dozen hearings before different judges, the need for multiple third-party disclosure orders and high-quality pro-bono representation resulting in a costs order in favour of a charity.

Most notably, the judge placed particular weight on the fact that the parties were litigants in person, alongside the modest nature of their income and assets. The judge noted that, although such cases account for the majority of FRC cases, they are comparatively underrepresented in the case law.

Instead, much of the existing jurisprudence focuses on high-value financial remedy disputes, commonly referred to as 'big money' cases.

This judgment therefore provides a useful reminder of the importance of developing jurisprudence that reflects the reality of the majority of cases before the FRC.

The evidence

In light of H's failure to provide any documentary evidence to substantiate the assertions made in his Form E, including his claimed reduction in income and alleged removal as a company director, the judge heard evidence from W alone. W had undertaken considerable investigative work to establish H's true financial position, including making several applications for third-party disclosure orders to banks and the DVLA. By piecing together the resulting disclosure, W was able to present a substantial body of documentary evidence which challenged H's account of his financial circumstances.

Income and business interests

Through H's bank statements, W established that, notwithstanding his assertions of a significantly reduced income, H had received over £88,000 into two current accounts with Santander and Starling between March 2025 and March 2026. Allowing for deductions at source, the judge considered it arguable that H's true annual income was in the region of £100,000 or more.

W also provided evidence of H's longstanding involvement with two apparently related businesses: RK Ltd, where he had been employed since 2014, reportedly receiving a salary of £800 per month, and RKM Ltd, a maintenance business incorporated shortly before the marriage, of which he had been the sole director and shareholder. Following an application by W to enforce child maintenance arrears, H asserted that he had been removed from a directorship and was now merely an employee, earning a substantially reduced income. The judgment records some uncertainty concerning H's precise relationship with RK Ltd, but notes that he continued to receive payments from the business and appeared to retain the benefit of company-funded expenses, including a vehicle and telephone.

Lifestyle & assets both during and post-marriage

W also produced documentary evidence, including material from H's social media accounts, demonstrating a lifestyle seemingly inconsistent with his declared income. This included designer clothing alongside extensive foreign travel and holidays. W further provided evidence suggesting that H had access to three motor vehicles, including two BMWs, one reportedly worth approximately £40,000.

Of particular significance was W's evidence that H had made transfers totalling £65,000 to offshore holdings during the marriage, which appeared inconsistent with his declared financial means.

The judge contrasted H's apparent lifestyle with W's circumstances. Whilst H continued to enjoy foreign holidays and the benefit of high-value vehicles, W had been left living with her parents, working limited hours whilst raising their child alone.

W's financial circumstances and the judge's assessment of the evidence

W gave clear and detailed evidence of her own limited financial resources and the difficulties she faced in securing stable accommodation for herself and the child. She explained that she hoped her father might be able to assist by providing a bridging loan or acting as a guarantor, enabling her to secure rental accommodation or raise a deposit pending the outcome of proceedings.

The judge recognised the considerable effort W had made to reconstruct H's financial position in the face of his persistent non-disclosure, commending both W and her legal representative for the work undertaken. The evidence presented provided a compelling picture of the disparity between H's declared means and his apparent income, assets and lifestyle.

Importantly, the judge was critical of H's conduct throughout the proceedings, noting his repeated failures to comply with disclosure obligations and the need for repeated third-party disclosure applications to establish information that should have been provided by H himself.

The legal framework

The court considered the well-established principles governing a party's obligation to provide full and frank financial disclosure in financial remedy proceedings, together with the consequences of failing to comply with that obligation. The judge expressly referred to three key authorities:

NG v SG (Appeal: Non-Disclosure) [2011] EWHC 3270 (Fam),

In this well-established case, the judge emphasised the parties' absolute duty to provide full, frank and clear disclosure of their financial resources, describing non-disclosure as "a bane which strikes at the very integrity of the adjudicative process."

Moher v Moher [2019] EWCA Civ 1482

Here, the Court of Appeal reaffirmed the court's ability to draw adverse inferences where uncertainty arises as a consequence of a party's failure to provide full and frank disclosure. In appropriate cases, the court may infer that undisclosed resources are sufficient to meet a proposed award, or that the proposed award represents a fair outcome.

Crowther v Crowther [2021] EWFC 88

Here, Peel J identified three circumstances capable of establishing a finding of non-disclosure:

1. Direct evidence of undisclosed assets;
2. Failure to comply with court orders and/or complete responses to questions asked;
3. Evidence of a lifestyle inconsistent with the financial resources disclosed.

Applying these principles, the judge considered that H's repeated failure to provide disclosure, non-compliance with court orders, undisclosed financial accounts and apparent lifestyle well beyond his declared means provided a strong evidential basis for drawing adverse inferences. The judge emphasised that uncertainty arising from H's non-disclosure should not operate to W's disadvantage.

Judgement

The judge concluded that H's non-disclosure had been deliberate and calculated to leave W at a disadvantage. The court was satisfied that H had significant undisclosed income and access to valuable assets. His apparent lifestyle was inconsistent with the financial position he had presented.

The judge was particularly critical of H's failure to meet his child maintenance obligations, especially given his elaborate expenditure on himself.

Having considered W's financial needs, limited resources and the shortfalls in her income, the judge considered that a lump-sum award was the most appropriate available method to enable W to rebuild her life and secure suitable accommodation for herself and the child, providing a clean break between the parties.

The court therefore ordered:

- £110,000 to be paid by H to W within 28 days.
- W was given permission to pursue enforcement of the lump-sum order after the 28-day period without further delay.
- £750 to be paid by H to the Access to Justice Foundation within 28 days pursuant to section 194 of the Legal Services Act 2007 and FPR 28.3(6)–(7), representing a sum in respect of counsel's time, following the pro bono representation provided to W.
- H was given permission to apply to set aside the order within 14 days, as he had not attended the final hearing.

Conclusion

Ultimately, in practice, this case is a useful illustration of the court's willingness to look beyond the figures presented in formal financial disclosure and consider the wider evidential picture. It reinforces the importance of full and frank disclosure and demonstrates that deliberate attempts to conceal financial resources can have serious consequences. It also highlights the importance of persistence and effective investigative work in establishing a party's financial position where disclosure has been inadequate.

Finally, the decision serves as a reminder that unreasonable litigation conduct can have consequences beyond the substantive financial remedy, as demonstrated by the additional costs order made in favour of the Access to Justice Foundation.



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