



IN THE FINANCIAL REMEDIES COURT
SITTING AT THE ROYAL COURTS OF JUSTICE

Neutral Citation Number: [2024] EWFC 213 (B)
Case no: 1629-3074-6963-8083

Date: 16 May 2024

Before :

DISTRICT JUDGE JOLLY

Between :

NT **(Applicant)**

- and -

RY **Respondent**

Nadia Zaman of counsel for the **Applicant**
Jyoti Wood of counsel for the **Respondent**

Hearing date: 25 and 26 January 2024

JUDGMENT

WARNING: This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

District Judge Jolly:

1. This is a financial remedy application issued by the Applicant Husband (“H”) against the Respondent Wife (“W”) on 20 August 2021. Financial disclosure was provided by W on 25 October 2021 and by H on 10 November 2021. A First Appointment took place on 13 December 2021 and a Financial Dispute Resolution hearing took place on 13 October 2022. The case came before me for a Final Hearing, following two previous adjournments on 6 and 7 June 2023 and 24 and 25 July 2023 respectively. H was ordered to pay W’s costs of the second adjournment.
2. The parties filed Forms H on 24 January 2020 which recorded that W had incurred £29,117 costs to date and expected to incur another £12,700, and H had incurred £33,661 to date and expected to incur another £3,160.
3. At the outset of the hearing H made applications challenging the valuation of the former family home and seeking to adduce further evidence, both of which were dismissed.

Background

4. The parties married in early 2011. Decree Nisi was pronounced in autumn 2020 and Decree Absolute in summer 2021. H moved out of the family home in early 2016. W asserted that the marriage ended in autumn 2015 (4 years 8 months) while H asserted that it began in 2010 and continued until early 2018 (8 years).
5. There is one child of the marriage, L, born in early 2014 and aged 9 at the date of the hearing. By virtue of a child arrangements order made in summer 2021, L was to spend time with H on alternate Friday and Saturday nights and one alternate mid-

week after school visit and for half the holidays and to have telephone contact. Contact broke down a couple of months after the order was made and L has had no contact at all with H since.

6. H went on to have two more children from different relationships, J, born in spring 2020 and aged 3 at the date of the hearing and B, born in spring 2022 and aged 1 at the date of the hearing.
7. H was in his early 40s and W in her late 40s at the date of the hearing. Both work in the same job for the same company and at the same site. They earn the same gross pensionable pay of just over £70,000 per year. W is in addition an instructor. W receives £423 per month from H through the Child Maintenance Service (“CMS”). H receives £460 per month in rental income from a lodger.
8. At the date of the hearing W was living in the former family home with the parties’ daughter and W’s sister. This is a two-bedroom property with a garage that had been converted into a third bedroom. W purchased this in her sole name in summer 2011, after the marriage but using funds that she said she had acquired before the marriage. It is valued at £340,000 with a net value of £238,957 after deduction of the outstanding mortgage and costs of sale.
9. At the date of the hearing H was living in a three-bedroom house he had bought in his sole name at some point after moving out of the family home. This is valued at £270,000 with a net value of £55,900 after deduction of the outstanding mortgage and costs of sale.
10. The parties have pensions with CETVs of £182,124 (H) and £118,299 (W).

11. W alleged non-disclosure by H, including that he had undisclosed income via a business buying and selling cars, undisclosed savings and property in his country of origin and undisclosed investments and chattels. H disclosed cash, investments and chattels worth £39,702. W alleged that his cash, investments and chattels were in fact worth at least £80,188.
12. W's cash, investments and chattels net of liabilities were said to be £46,084.
13. H had liabilities of £27,706 and W of £1,304.
14. Both parties asserted unequal contributions.
15. H sought a clean break with a lump sum payment to him of £42,000. W sought a clean break with a lump sum payment to her of £60,000.

H's evidence

16. H stated that the parties had moved in together in 2010 prior to the marriage. He had moved out in early 2016 but the parties had continued to work on their relationship, finally separating at the beginning of 2018. H relied on photographs from early 2018 showing that the parties had gone on holiday together where they had celebrated L's fourth birthday and Valentine's Day.
17. H asserted that he shared care of B with B's mother who lives abroad and who spends half the year here and half the year abroad. He contributes £175 per month towards B's care. He asserted that he was the sole carer of J, who lives with him in the UK and whose mother lives overseas. J had been living with him since May or June 2023.
18. H claimed that he was not seeing the parties' daughter because W would not let him until he had done an anger management course and what he referred to as a "dad

something” course that the judge had told him to do. He had not done those courses because of the pandemic. As a result, overnight contact had never started.

19. H claimed that he was unable to work overtime because W would not let him see their daughter if he did, and he had to show W when he was off work.
20. H said that his payments of £100 per month to HMRC were repayments of money an accountant had obtained illegally from HMRC on his behalf.
21. H said that he and his friends and family do a lot of financial favours for each other, including:
 - Taking out a £9,000 loan from Tesco for his brother
 - Transferring money to and from a friend’s Paypal account
 - Buying items for a friend from his home country or from shops selling those items in London
 - Paying for a friend’s nephew’s overseas tuition fees
 - Paying a friend using his AmEx card to get more points
 - Helping to sell t-shirts for a fundraising event
22. H said that he was paying W £500 per month towards the family home from its purchase in 2011 and continued to pay that after separation towards the mortgage. He also stated that during the marriage he would pay half the monthly balance on the joint Capital One credit card account which they used for bills and household expenses.

W’s evidence

23. W said that the parties met in summer 2010 and started dating. At the end of 2010 H’s mother passed away and she helped him financially to travel to his home country and

with the funeral. Once out there H said that he had a problem with his visa. She went out to help him and they got married there at the beginning of 2011. A few months later she bought the former matrimonial home and they moved in together. She did not ask him for any financial contributions initially as he was still a student. When she got pregnant with L she asked him to start contributing. He started contributing £250 a month in late 2013 and this went up to £500 a month after L's birth in early 2014. After he moved out he did not contribute towards the house but agreed to share nursery costs.

24. W said that H did not pay a penny towards the Capital One account. After L was born she was living on statutory maternity pay and her savings.
25. W said that H left the marriage for several weeks in May to July 2015 but returned briefly before ending the relationship for good in autumn 2015 and moving out in early 2016 when he found another place. She said they continued to go on holiday together as co-parents of L but always with other people and never sharing a room.
26. Regarding the holiday in early 2018, W accepted that that had taken place. They had had two hotel rooms with an adjoining door so that L could go in and out easily. They had gone on holiday with another couple. She denied knowledge of the Valentine's Day photographs but accepted that one of the other photographs was of her sleeping in the bed. She alleged that H had entered her room without her knowledge to take this photograph.

Submissions on behalf of W

27. W's counsel submitted that it was an extremely short marriage. By the time of the hearing the parties had been living independently for nearly a decade. The former

matrimonial home was matrimonial property but W had paid for the vast bulk of outgoings including on food, the wedding and the parties' child. H's contributions had been extremely low. His total contributions were £250 a month from late 2013 to the birth of L and then £500 a month until separation. These contributions were extremely low for a working adult. H had been unable to evidence any other contributions.

28. This was supported by the fact that H was able to raise a deposit of approximately £30,000 to buy his current property after separation, from a net salary of £40,000 per annum.
29. H had been unable to evidence the continued relationship after the parties had stopped cohabiting.
30. H had not been candid about his financial circumstances. He had not disclosed his BAYE and SAYE capital, even though his payslips showed payments being made. There were extraordinary amounts of money passing between friends and family, large amounts to car auction sites and regular overseas travel. There were payments from his account abroad when he was recorded as working in the UK. His known and claimed expenditure over a year was in excess of £65,000 from a net income of around £47,000. There was no explanation for why so many of his work colleagues came to him for so many complicated financial arrangements.
31. His litigation conduct was marked by compliance failures, delays, disruption and last-minute ambushes. An example was disputing the valuation of the former family home at the beginning of the final hearing when this had been obtained jointly in accordance with directions.

32. H's proposal would require W to sell her property, take out a loan or use up all her savings that she was accumulating for L. W is L's sole carer as H had made no application to enforce the child arrangements order.
33. H is adequately housed in a three-bedroom property. The court does not have to quantify what is missing from his disclosure but should factor it into what is in the pot.

Submissions on behalf of H

34. H's counsel said that H had contributed to the family home from the start. He was fully committed to the relationship. The relationship subsisted until 2018. The photographs from the trip in early 2018 make it hard to believe that it was for the benefit of co-parenting. H was hoping for a reconciliation and making lots of effort.
35. H's evidence could be relied on. He admitted to certain things he could not understand. He had found the proceedings very stressful and was taking care of his three year old daughter on a sole parent basis. He had not been able to see his daughter L and would like to. He would then be taking care of two children. His needs should be considered as a single parent. His earning capacity would be limited in the future. He was worried that he would not be able to work in the same capacity, especially as his three year old will grow up and have more needs.
36. H considered that W had property in her country of origin and bank accounts that she was not disclosing.
37. H's friends were almost like siblings and with their support he has been able to buy the property in which he is living. His bank statements show that he has paid back amounts. He believes that he should be entitled to an equal share in the matrimonial

assets. He has contributed to the family life so should not walk away empty handed. He is not sure what his financial situation will be in the future.

Evaluation of the witnesses

38. I formed the view that H was an unreliable witness. He was evasive and reluctant to commit to an account. When asked why he had not mentioned in his statement that he had his three year old daughter living with him, his answer was that “[W] needs to prove it, not me.” When asked if he had put in any evidence to show this, he said “If you haven’t seen anything then I suggest I haven’t”. When asked whether he was in a relationship with the mother of his son, he answered “we have a child together. I consider that a relationship.” He blamed his solicitors for failing to disclose his shareholding portfolio. When asked why he had not provided any text messages or other evidence to substantiate his claim that the parties’ relationship was subsisting between 2015 and 2018, he stated “I don’t know the law.... If there was a requirement for me to provide them, I would have provided them.” H’s oral evidence was in keeping with his approach to disclosure, where he had responded to W’s requests for evidence of his contributions by saying “check your own bank statements”.
39. There were significant inconsistencies between H’s oral and written evidence. The ES1 recorded his case as being that cohabitation commenced in 2009. In oral evidence he said that the parties started their relationship in June 2010. In his supplementary statement he stated that cohabitation commenced in June or July 2010.
40. In oral evidence H claimed that J had been living with him since May or June 2023. In his supplementary statement he did not mention this and instead said that “transfers to those countries are for my children who live there.... It is right that I send money to their mothers as my contribution to their care.” He sought to blame this on a

grammatical error but went on to say in oral evidence “they used to live overseas but they are currently with me now.” This was again at odds with his earlier statement that “I am the sole carer. The mum lives overseas. She doesn’t visit at all.”

41. H was unable to give a convincing explanation as to why he had not pursued contact with L. He blamed the lack of contact on W’s insistence that he do an anger management course and what he called a “dad something” course that the judge had told him to do at the earliest opportunity. He blamed his failure to do those courses on the Covid pandemic but gave no indication of any attempts to do them since. When asked why he had not made an enforcement explanation he gave conflicting reasons: “I didn’t know I had to do that. I emailed the judge and the court emailed me with the form. It is so stressful. I didn’t want to invest money or whatever. I’m not sure why I have to go and fight again in court if I’m not in breach of the court order.” Despite having made no efforts to reinstate contact for over two and a half years, H sought to blame W for restricting his overtime, saying “I can’t at the moment. [W] refused to give me my daughter if I have to do any overtime. I have to show her in advance that I’m actually off.... Because of restrictions imposed on me by her I can’t do overtime.”
42. H’s explanation for his £100 per month payments to HMRC was that he had used an accountant who had obtained a refund unlawfully from HMRC on his behalf and he was now having to pay it back. This was unevicenced and did not sound plausible.
43. I found W’s evidence to be detailed and consistent. She conceded that one of the photographs from the holiday provided by H was her asleep in bed, even though her face was not visible. Her written and oral accounts were consistent. She gave clear details as to how the parties met and the circumstances of their marriage and her

purchase of the family home. Her accounts of H's contributions and of their holidays together post-separation were detailed and consistent.

44. I was not convinced by W's evidence as to the purchase of the 'family' Audi. When confronted with evidence that the Audi had been delivered two to three months later than the payments from her account, but she maintained her position that the payments were for the Audi. This appeared implausible. I find it likely that the payments were for a different car. I take into account that the events in question took place over 10 years ago and I take the view that W was mistaken rather than dishonest in her evidence. The evidence was clear that she had made payments for a car and to that extent it was of little significance. Overall my impression of W was that she was a credible witness.
45. Insofar as there is a conflict in the parties' evidence and there is no corroborating evidence, I adopt W's account.

Fact findings

46. I make the following findings on the balance of probabilities, bearing in mind that the burden is on the party asserting a fact to prove it.
47. The parties met in summer 2010. They married at the beginning of 2011 and started cohabiting in early summer 2011 when W bought the former matrimonial home, which she bought with funds acquired prior to the marriage. W helped H financially with his mother's funeral and paid for the parties' wedding.
48. H did not contribute financially to the household expenses until late 2013. He then started making payments of £250 per month and increased these to £500 per month after L was born in early 2014.

49. There was a period of around six weeks between May and July 2015 during which H left the marriage. By early autumn 2015 the marriage had ended permanently, making it a marriage of 4 years and 8 months. H remained living at the former matrimonial home until he moved into shared rented accommodation with a friend in early 2016 before buying his current property with a deposit of £30,000. I find that that deposit was largely made up of savings accrued by H during the marriage.
50. The parties continued to go on holiday together until early 2018 as co-parents but not as a couple. They did not share a room and went with other adults as well as their daughter.
51. After separation, H paid half of L's nursery fees. He also paid child maintenance of £423 per month through the CMS.
52. H went on to have two more children who live abroad with their respective mothers. He provides financial support to the mothers of around £175 and £100 per month respectively, in addition to the CMS payments for L. H has failed to prove that he is the sole carer of J or that he shares the care of B. I find that none of H's three children live with him. H has had no contact with L for over two and a half years and has taken no steps to address W's concerns about contact or to enforce the child arrangements order. I find that H's three children are wholly or mainly cared for by their mothers and that this is likely to continue in the future.
53. I find on balance that H has not provided full disclosure. There is a missing NatWest account, missing BAYE disclosure and missing bank statements from his country of origin. W witnessed H opening a bank account in his country of origin in 2016 but no statements matching such an account were provided. Some of the statements that H did disclose were redacted.

54. I find that the frequency of payments coming in and out of H's bank account or going to his country of origin cannot plausibly be explained as favours for family and friends. I find that H had some financial interest in those transactions.
55. H also failed to provide a plausible explanation for his payments of £100 per month to HMRC.
56. I find that H has financial resources that he has not disclosed, including some kind of self-employment and other savings and investments.
57. H's litigation conduct has been poor. The partial and untimely disclosure that H has engaged in has had the effect of increasing W's costs by giving her a series of leads that she had fruitlessly to follow up. H has also put W to further expense by making last minute applications at the door of the court that were bound to fail.

Computation

58. Before considering how the parties' assets should be distributed I need to determine what is in the pot. The parties filed an ES2 in which W disputed the figures given by H for his investments and cars. I have adopted W's case on those assets for the reasons set out earlier.
59. At the outset of the hearing H sought to challenge the valuation of the former matrimonial home but as this had been obtained jointly in compliance with directions I have adopted that valuation.
60. I have departed from W's disputed ES2 figures only in relation to the inclusion on H's side of a ring worth £1,500 said to have been bought for L. That ring was not

mentioned in her witness statement and was not put to H in cross-examination so it would not be fair to include it.

Asset schedule

	H	W	TOTAL
Former matrimonial home		£238,957	£238,957
H's current property	£55,900		£55,900
PROPERTY TOTAL	£55,900	£238,957	£294,857
Cash	£7,654	£38,612	£46,266
Investments	£45,034	£7,322	£52,356
Cars	£26,000	£150	£26,150
Liabilities	(£27,706)	(£1,304)	(£29,010)
OTHER TOTAL	£50,982	£44,780	£95,762
NON-PENSION TOTAL	£106,882	£283,737	£390,619
Pensions	£182,124	£118,299	£300,423
ALL ASSET TOTAL	£289,006	£402,036	£691,042

61. The total 'visible' asset pot is therefore £691,042. An equal share would give the parties £345,521. That would require a balancing payment to H of £56,515. As things currently stand, W has 58% of the pot and H has 42%.

Distribution

62. In deciding whether and how to exercise my powers to make financial remedy orders, I need to consider what is fair. In so doing, I am to have regard to all the circumstances of the case, the first consideration being the welfare of L and particular regard being had to the following factors, insofar as they are relevant:

- (a) the parties' income, earning capacity, property and other financial resources;
- (b) their needs, obligations and responsibilities now and in the future;
- (c) the standard of living of the parties during the marriage;
- (d) their ages and the duration of the marriage;
- (e) any disability or health condition that either party has;
- (f) the contributions that each has made, or is likely to make in future, to the welfare of the family;
- (g) any conduct of either party so shocking that it should not be ignored;
- (h) any benefit that either party will lose as a result of the divorce.

63. In applying those factors to the case, the higher courts have indicated that three principles should be applied. The first is the sharing principle, which means that the assets acquired during the marriage as a result of the matrimonial partnership should be shared out between the parties. Applying that principle may mean identifying which of the assets are matrimonial in nature. This will depend on how and when those assets were acquired, how long they were available to the parties during the marriage and the extent to which they were used to meet the family's needs. This is a sliding scale rather than a binary question. The non-matrimonial source of an asset can still be taken into account even where it has been used as a family resource. The weight attached to the original source depends on the facts of the case.

64. The second guiding principle is the needs principle, which means that the parties' reasonable future needs should be met. If and when these two principles clash, needs trumps sharing. If a strict application of the sharing principle would leave one party in penury whilst the other had sufficient wealth to assuage those needs, the court will ensure that the parties' needs are met without worrying too much about whose money is being used. The third principle, which in practice only rarely crops up, is the

compensation principle. That does not apply in this case and I do not need to discuss that principle any further here.

65. The relative importance of these principles varies according to the facts of the case but the overarching requirement is to achieve fairness.

Welfare of the parties' child

66. L was nine years old at the date of the hearing and is now 10 years old. She lives with W in the former family home and has not had any contact with H at all for over two and a half years. Her maternal aunt also lives in the property and helps with childcare.

67. There is a child arrangements order in force providing that L can see H for half the holidays and two overnights a fortnight. Any orders made in the financial remedy proceedings should not preclude this order having effect.

68. H has not taken any steps to reinstate contact, instead focusing on the financial remedy proceedings in which he seeks a lump sum barely exceeding his legal costs. I approach the case on the basis that W is likely to be providing all or most of L's care until she reaches adulthood. I bear in mind that any orders made in H's favour will have the effect of moving resources away from the household in which L currently lives and is likely to live for the foreseeable future.

69. In my view L's welfare needs are met in the current circumstances. She is housed near her school and in the house and area in which she has lived her whole life. The house has sufficient bedrooms for her, W and L's maternal aunt.

70. It is also in L's interests for H to have two bedroom accommodation within a reasonable distance of W where L can stay overnight if contact resumes in accordance with the child arrangements order. That need is also met in the current circumstances.
71. Both households are financially sustainable, both now and for the foreseeable future.

Income, earning capacity, property and other financial resources

72. The parties are both working in the same job for the same company at the same site. Although W has been doing the job for longer, they are on the same gross pensionable pay of just over £70,000 pa. W is in addition an instructor. H's net monthly pay is £3473 compared to W's £4059. This difference is likely to be accounted by a combination of H having more deductions and/or doing less overtime and/or not being an instructor. Insofar as it is due to H having more deductions, those are likely to come back to him at some point. Insofar as it is due to him doing less overtime, as a person with no childcare responsibilities there is nothing to stop him doing overtime if he so wishes. Insofar as it is due to him not being an instructor, I am told that he is looking to progress into management and he will therefore have the same increased earning opportunities in due course. H is younger and has more years of career progression ahead of him.
73. H has additional income of £460 per month from a lodger. W receives child maintenance payments of £423 per month from H.
74. The income and earning capacities of the parties are broadly equal.
75. Both parties own a three-bedroom property. W's property has a slightly higher gross value and significantly higher net equity.

76. The parties have a roughly similar level of cash, investments and chattels once liabilities are deducted, amounting to £50,982 (H) and £44,780 (W).
77. H's pension CETV is higher than W's (£182,124 compared to £118,299). He also has five more years of working life.
78. Looked at in the round, I consider the parties to have broadly equal financial resources.

Needs, obligations and responsibilities now and in the future

79. W needs a three-bedroom property near L's school to house herself, L and her sister. She is currently the sole carer of L and works full-time, relying on her sister for childcare. L is likely to benefit from having the support of two adults in the house. W's needs are currently met in this respect.
80. H needs a two-bedroom property within a reasonable distance of W and L's school, so that if contact progresses to overnight stays in the future he can accommodate that. H's housing needs are currently met.
81. The responsibility for L's day to day care at present falls wholly on W with H making a financial contribution of £423 per month. If L's contact with H were to progress to the level envisaged by the child arrangements order, she would still be with W for approximately three quarters of the time.
82. H also contributes financially to his other two children overseas to the tune of around £275 per month in total.
83. Both parties have mortgages. H has an outstanding mortgage of £206,000 and W's is considerably less at £87,946. H's monthly repayments were £831 but in oral evidence

he said that he had been overpaying this by £200 per month and that it was in any event going up to £1,207 per month after switching his mortgage in January 2024. W's monthly repayments were £762 per month as at the date of her s25 statement in late 2022.

84. Both parties are able to meet their financial obligations from their incomes. H has greater regular financial commitments than W but he is able to cover these from his disclosed income. W has greater disposable income but I take into account that she is the sole carer of L.
85. Both parties are likely to be able to meet their retirement needs from their pensions, taking into account that they are in their 40s and have several years of working life left. H's pension is greater than W's and he is younger.
86. I take the view that the parties reasonably need a capital cushion of around six months' income to cover emergencies and capital expenditure such as replacement furniture or property renovation. I will allow a notional figure of £24,000 each in relation to capital needs. Both are able to cover this amount from their existing savings and/or investments and/or chattels, after deduction of liabilities.
87. H has greater liabilities than W but also more assets available to him in savings, investments and chattels. After deduction of liabilities, he still has more such assets available to him than W, though the difference is not great (around £6,000).
88. In my view the parties' positions in relation to needs, responsibilities and obligations are roughly equal. H has a bigger mortgage but this is offset by W having sole responsibility for L.

Standard of living of the parties during the marriage

89. The parties lived in W's property which was originally a two-bedroom house, subsequently converted into a three-bedroom house. They are now housed separately in the same or similar sized properties. The parties enjoyed a lot of overseas travel. H continues to do so and W has the financial resources to do so. They were on more limited incomes at the outset of the marriage. H was originally studying for another profession but switched to qualify in his current job with a corresponding increase in salary. W progressed to qualify in her current job and eventually become an instructor. Separation has not significantly impacted on their standard of living and they continue to enjoy separately a standard of living commensurate with the one they enjoyed during the marriage.

The parties' ages and the duration of the marriage

90. The parties are in their 40s and have many years of working life left, H having slightly more.

91. The marriage lasted 4 years and 8 months. Cohabitation started five months after the marriage. There was also a period of six weeks in 2015 during which H left the marriage. This is a short marriage.

The contributions that each has made, or is likely to make in the future to the welfare of the family

92. W made significantly greater contributions to the family. She contributed her non-matrimonial savings to the purchase of the family home. She also paid the outgoings on the family home and the household expenses for most of the marriage. She has provided most of L's care and remains her sole carer.

93. H contributed comparatively little to the household finances, enabling him to build up savings during the marriage that he was later able to use as a deposit on his current property.

Conduct of either party so shocking that it should not be ignored

94. There has been misconduct by H in relation to two issues, non-disclosure and litigation conduct. I will consider below to what extent this should be reflected in the overall division of the assets.
95. The Court of Appeal has ruled that I am not required to make a specific determination as to the extent of H's undisclosed resources (*Moher v Moher* [2019] EWCA Civ 1482).
96. What I may do is “draw such inferences as can properly be drawn from all the available material, including what has been disclosed, judicial experience of what is likely to be being concealed and the inherent probabilities, in deciding what the facts are.” (*Presto v Petrodel Resources Ltd* [2013] UKSC 34 [85])
97. While it is better to be unfair to the non-discloser than to the other party, I should not indulge in mere speculation or jump to conclusions as to the extent of the undisclosed wealth simply because of some non-disclosure. My task is to ensure that H does not obtain a better outcome than he would have received had he complied with his disclosure obligations.
98. With that in mind, I make the following observations. The unexplained amounts going in and out of H's account are relatively small. The figure given by W's counsel for expenditure in excess of H's disclosed income over a 12 month period is around £18,000. That is not a vast sum in the context of the case. H works full-time and

contributes financially to three children. He has family members in his country of origin whom he may be called upon to assist. He lives in a modest three-bedroom house encumbered with a substantial mortgage.

99. I am unable to quantify H's undisclosed resources but my view is that they form a relatively small part of the assets.
100. H's litigation misconduct has not caused such a significant depletion of assets as to require reflection in the overall distribution of the assets. It may sound in costs and I will hear further submissions from the parties on that topic in due course.

Conclusion

101. This is not a high value case. Unusually for this type of case, it is a sharing case because L's welfare needs and the parties' housing, income, capital and retirement needs are met and there is a small surplus that falls to be considered under the sharing principle.
102. This requires consideration to be given as to which assets are matrimonial and which are not. H's current property was bought by him post-separation, but the £30,000 deposit paid by H was an asset acquired predominantly during the marriage. Insofar as there has been a small increase in equity post-separation that would apply to both properties. I also take into account the fact that the former matrimonial home was bought by W using her own pre-marital savings.
103. The parties have not made any claim on each other's pensions and no issue has been raised regarding pre- or post-marriage accrual. Both parties continued to accrue their pension on the basis of the same pensionable pay after separation. I have therefore treated the CETVs for those pensions as wholly matrimonial.

104. Neither party has sought to argue that any of the assets are non-matrimonial and I proceed on the basis that the entire pot is matrimonial.
105. The parties are adequately housed and neither has sought the sale or transfer of the other's property. They have adequate provision for their retirement and neither has sought a share of the other's pension. They have the same gross pensionable pay and neither is seeking an income order. They each have a capital need of around £24,000 for emergencies and capital expenditure which they are able to meet from their existing savings and investments.
106. H and W are seeking a lump sum of £42,000 and £60,000 respectively. Insofar W's offer is intended to achieve a 50% share, it would imply that H has nearly £175,000 of undisclosed assets. I have found that his undisclosed assets are likely to be relatively small and in my view they would be somewhat less than £175,000. W does not have £42,000 to spare. Neither can meet the lump sum sought by the other. After allowance has been made for their capital needs, the parties have surplus assets of approximately £27,000 (H) and £21,000 (W).
107. There should be some departure from equality in W's favour to reflect her greater contributions to the marriage and H's non-disclosure. That in my view is adequately reflected in her current 58% share. There is no justification to make further inroads into H's assets. I will therefore make no lump sum order in favour of either party. I will order a clean break as to income and capital with all assets to remain as they are.