

Reform of Financial Remedy Legislation: Not the end of the world as we know it (yet)



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1. The UK courts have long exercised ever-evolving powers to facilitate the fair distribution of the assets of divorcees / separating civil partners and to regulate their responsibility for mutual financial support.
2. Unlike some other jurisdictions, this is a discretionary exercise in which a particular outcome may not be precisely predicted. As the Court of Appeal recently observed in *Standish v Standish* [2024] EWCA Civ 567 at para 162 “when setting out the principles applicable to the determination of financial remedy cases there is a balance to be struck between flexibility and certainty. The flexibility to achieve a fair outcome in the individual case and a sufficient degree of certainty as to the likely outcome”.
3. On 14th May 2024 the **Law Commission** published its 58th Annual Report 2023-24 (Law Com No 415), detailing its forthcoming “scoping review” in relation to the potential rewriting of financial remedy legislation on divorce / dissolution of civil partnerships, which may impact upon the manner in which that balance is struck.
4. The report states:

“The Government has asked the Law Commission to review whether the current law is working effectively and delivering fair and consistent outcomes for divorcing couples. In its scoping review, the Law Commission will carry out a detailed analysis of the current laws on financial remedies, to determine whether there are problems with the current framework which require law reform.

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The project will consider the financial orders made by courts in England and Wales, as well as – for comparative context - the law in other countries. It will conclude by publishing a scoping report, which will identify what the options for reform might look like. The scoping report will not make recommendations, but could provide the basis for a full review with substantive recommendations for reform.”

5. The aim is to publish the “scoping paper” in November 2024.
6. We are still some way from knowing what if any recommendations may be made for change to the existing law, let alone whether and in what form the Government in power might seek to implement them, or how they might survive their passage through debate, and will therefore have to await the next chapter in this story towards the end of this year.



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Law is correct as at 22 May 2024

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