



Helen Pidgeon Solicitors
FAMILY MATTERS

How to get legal advice when you represent yourself in proceedings for a divorce, to reach a financial settlement or to resolve the arrangements for your children.

How can separating couples still get legal advice when they represent (act for) themselves in mediation, arbitration or court proceedings?

If you chose to represent yourself, or you cannot afford full legal representation, to:

- resolve parental disputes for the care arrangements for your children,
- force a sale of a house you may co-own or have an interest in,
- apply for a divorce and,
- obtain a financial settlement in a court order

then under our Limited Retainer agreement, we can provide you with legal advice on a specific issue or a discrete task. This can also be known as “unbundling” legal services. We cannot engage in correspondence with the court, your former partner or spouse (or their solicitor) or any other 3rd party connected with your matter. You are still responsible for and in control of how much correspondence is written, the negotiations that are undertaken, complying with the court directions and attending all meetings and court hearings. It is only when we act for you under full legal representation that we would do all of these tasks for you.

Why is getting some legal advice during mediation, arbitration and court proceedings helpful?

Representing yourself during arbitration or court proceedings can be a daunting, time consuming and emotionally challenging.

Taking legal advice on the issues that need to be focused upon at an early stage can help you to avoid getting distracted on matters that do not need to be resolved as part of the legal process, help you to act within a child’s best interests so you can co-parent in the future, avoid delays with ineffective hearings and prejudicing yourself by conceding too much (or too little).

During the mediation process we can analyse the financial information you and your spouse should disclose to each other to say what details might be missing and you ought to obtain or, what experts should be instructed to properly value an asset or your interest in it such as; a surveyor (for a house), a forensic accountant (for a business) or pension adviser (for your or your spouse’s pension). This can prevent you from reaching an agreement with your spouse before you know all about their financial details and what you interest you each might have so again, you do not financially prejudice yourself.

In arbitration or court proceedings we can help you to prepare for those hearings so your position is fully understood by the arbitrator or judge conducting the hearing. During these hearings the solicitor for your former partner (or spouse) and/or the arbitrator or judge should be courteous, allow you some extra time so you can understand what it is you are required to do and they should adapt their language so you can follow what is being said. Neither the solicitor for your former

partner or spouse and/or arbitrator or judge can give you legal advice about what is best for you or your child.

If your former partner or spouse is legally represented and you have not fully prepared for an arbitration or court hearing, the arbitrator or judge is going to be more persuaded by the position put forward by your former partner or spouse provided, of course, the court has the authority in law to proceed in that way. In a financial case, you may not know what factors the court can take into account to decide how much capital each of you should receive. At these hearings you may not know all the alternative procedures and options that can be considered by the court. Before the hearing, we can advise you how to make an application to appoint an expert who may support your case. Having legal representation from a barrister under the Direct Access scheme (see below) will help you to appeal a decision that may have been incorrectly reached by the judge.

There will be specific documents you are required to complete for the arbitration and court hearings. For one reason or another, waiting to receive documents from your former partner or spouse or an expert can be delayed so it can all happen at very short notice. This can be very difficult to manage if you have other family commitments or are working full time. The more you are able to agree upon before those hearings then the more effective those hearings can become, so an arbitrator or judge can just focus upon the significant issues that need to be resolved in order to move your case forward. There are times when it simply is not possible to agree much beforehand but, if you can demonstrate your willingness to do so, and you have put forward a reasonable position in contrast to your partner or spouse, you should be able to make a successful claim for your legal costs to cover the costs of any representation for that hearing.

When the Ministry of Justice last conducted its research of cases that settled at court hearings or had to be decided upon by the court at a final hearing, it showed the percentage of cases that settled with an agreed order was higher than those cases where one party had no legal representation at all. The percentage of cases that settled doubled when both parties had full legal representation. Being equipped and thus having the confidence to reach an agreement, even at court, helps to reduce the stress, expense and time of ongoing disputes.

What type of legal advice can you receive under a Limited Retainer in negotiations, mediation, arbitration or court proceedings for?

Divorce Proceedings

You can go online yourself to make an application for a divorce but if you do not know your spouse's whereabouts and contact details or, be able to show you have done all you reasonably can to find them, then we can help you to achieve this and, present your information to the court to avoid it being delayed and rejected.

If you have grounds to defend a divorce, we can prepare your defence or, your response to such a defence made against you. If you are in a multinational marriage, this may determine the country from which you can receive a financial settlement and, depending upon the laws in the other country that could be involved, that may be more favourable to you or prejudice you.

Financial Settlement

Whether you negotiate a financial settlement voluntarily between yourselves, during mediation, or represent yourself in arbitration, or in court proceedings, we can help you to:

- Prepare your financial statement (Form E), in particular, your schedule of expenses so that you can strengthen or weaken a claim for maintenance. Part of this form asks you for narrative details about the financial circumstances of your marriage and your contributions and needs. In these parts it is important to focus upon the relevant issues to achieve the best financial outcome for you, as the Form E is the cornerstone of your case.
- Collate and bind together your financial documents to be disclosed to your spouse so that you avoid delays with missing documents or being prejudiced by misinterpreting which documents need to be disclosed and need further explanations.
- Draft a letter of instruction to an expert to value a property, business or pension and if relevant, your spouse's interest in those assets. You need to make sure your interest in those assets is not being undervalued (or overvalued) or your spouse's interest is not overvalued which can be to your disadvantage too.
- Identify suitable housing particulars for you and your spouse to present to the court to support your financial proposals. How you present your housing needs will determine how effectively you will be able to negotiate and reach a settlement. One of the factors the court can take into account is your reasonable housing needs and this can determine the amount of capital you or your spouse will receive.
- Draft or advise you upon the final order to record your agreement or the judge's decision. In a financial matter the drafting of these documents is not straightforward and unfamiliar terms will be used. Even though a financial order records the agreement, it may not be drafted to ensure enforcement to your benefit or it could be unnecessarily to your disadvantage. Getting legal advice on these documents helps to prevent delays in implementing a financial order or further court proceedings over the interpretation and enforcement of these orders.

Care Arrangements for your child or children

In an application to resolve the care and parenting arrangements for children we can:

- Draft your application for a child arrangements or enforcement order to make sure you only include the essential information to bring to the courts attention. The court can then deal effectively with those issues at the first court hearing to avoid delays.
- If there are issues of domestic violence or abuse involving you or your child then we can draft your allegations or response to those allegations and help you identify what further documents the court may need to investigate those allegations to prove or disprove them. Identifying and obtaining these documents early can reduce the duration of the court proceedings.

Whichever proceedings you are involved in we can help you draft your statement of evidence for you to use at a final hearing to highlight the main issues the court needs to focus upon in order to make a decision on your matter.

Mediation Meetings

In mediation meetings we can help you present the information in an easily accessible paper or electronic format which will help to reduce the stress of those meetings and help you to focus upon the issues to be resolved. In arbitration and court hearings there is a required standard format for presentation of these documents and irrespective of you representing yourself in these proceedings, the court (and possibly arbitrator too) will expect you to follow this format otherwise cost orders in favour of your partner or spouse could be made against you.

Direct Access

If you instruct a barrister to represent or advise you at an arbitration or court hearing under the "Direct Access Scheme" then we can help you prepare your documents to be used by them too. This will help to reduce a barrister's fees and free up their time to concentrate on presenting your case to the court.

We can only assist and advise you upon completing the above tasks based upon the documents and information that is provided to us. Under a Limited Retainer we cannot advise you upon the overall success and strategy of your application, as we would be able to do if we represented you fully. Also, under a Limited Retainer we may not be able to advise you if there is insufficient time for us to complete the task but if we represent you, then we would manage the timings for the completion of the tasks for you. It is, therefore, important to involve us with plenty of time and to give us full information.

When should I consider getting some legal advice?

If you cannot afford full legal representation, have the time to undertake some of the administrative tasks yourself or, you are choosing to represent yourself and need occasional advice on the preparation of specific documents, we can discuss whether your matter is suitable for a Limited Retainer agreement with us.

We can consider accepting instructions at any time throughout the process whilst you are in mediation, arbitration and court proceedings but ideally, you should discuss this with us at the start of your matter before you decide which process you would like to use. Then we can help you budget for your legal support and to avoid any delays in the process to reach a conclusion.

Use the free and confidential link on our website www.helenpidgeonsolicitors.com to find out where you stand and obtain more information about your situation or, contact us by telephone +44 (0) 203 585 2576 / +44 (0) 07833 228181 or email helen@helenpidgeonsolicitors.com for a free initial discussion to see how we may help you. We offer initial fixed fee appointments during which we can give you legal advice about your options and possible outcomes. Helen Pidgeon Solicitors specialise in all aspects of family law and offer mediation and the collaborative practice.

References in this article to divorce proceedings also apply to the dissolution of a civil partnership save as otherwise stated.