

## The Price of Separation- Seven Signs of Service

**The Price of Separation** - divorce related legal complaints and their causes - a report published by the Legal Ombudsman 28 February 2013 has attracted considerable media interest. The report concerns runaway costs and frequent reasons for complaints against divorce lawyers. Please see [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk) for the report.

How can you be satisfied that you will receive a reliable and valuable service from your divorce/ family lawyer? Here are **Seven Signs of Service** you should expect from your lawyer to help you make the best decisions at a difficult time

### 1. Choice of process

Your choice of the right process is crucial to the duration, costs and outcome of your case. There are seven routes now available for clients. During your first meeting with a family lawyer you should expect to have all of these explained to you - from DIY online services to the court process and all stages in between. Your lawyer is there to help you identify what route suits you and what you can afford to spend on costs

### 2. What it will cost?

How much this costs will depend on how high the conflict is between you and your partner. The higher the conflict the higher the level of intervention you will need from your lawyer and other services. Hence the need to discuss at your first lawyer meeting the best process for you and your situation. All lawyers are required under the Solicitors Regulation Authority (SRA) Code of Conduct, which came into effect 23 December 2011, to provide you with an estimate of how much your case will cost from start to finish. Again the cost will depend on your choice of process. All costs estimates should be in writing and in a form that you can understand.

Fixed fees are available with some law firms. We provide a fixed fee rate for your first meeting and other fixed fee rates as and when appropriate for your case.

You should also expect regular updates on your costs in writing as your case progresses. Unforeseen events will increase the original costs estimate. Your lawyer is required to give an estimate to you first, about any increase, before taking any new steps required.

### 3. How do you keep track of your costs?

Funding your case should also be discussed at the beginning so that you can be prepared to meet legal bills as they arise. Most lawyers do monthly billing but to make sure ask for bills to be sent to you each month. In this way

- you pay for your costs as your case goes along
- both you and your lawyer can monitor whether the original costs estimate still holds good or needs to be increased

- you do not get a nasty surprise at the end with a bill several times more than you had expected

#### 4. How do you fund this?

Help with funding may be necessary if paying for your legal costs will be difficult, if not impossible for all or part of your case. You need to discuss this with your lawyer at the start. Dispute resolution methods outside the court process (eg mediation or collaborative practice) lend themselves to easier arrangements on costs. There you can discuss with your spouse/ partner using a fund from the family assets for your joint costs to pay your lawyers / mediator. If you have to go to court then a bank loan may be necessary. Alternatively there are litigation fund lenders who will provide a lump sum to your lawyer to cover your costs during your case. You would then repay those costs from the assets you recover at the end. However as you would expect there will be interest charged on the loan for which you will need to budget. Some law firms will also offer a similar arrangement under what is called a Sears Tooth Agreement.

Legal Aid for most family work will end on 1 April 2013 but will still be available for Mediation with firms who have a Mediation Franchise. Again you need to discuss this with your lawyer.

If your only choice of process has been going to court then another help with court costs (in force from 1 April 2013) is what is called a Legal Services Order. You can apply to the court if you fulfill certain statutory criteria **and** if there are funds available from the family assets which can be used for your costs. This remedy does not apply to unmarried couples. Ask your lawyer about this.

#### 5. The emotional side

The Legal Ombudsman in his Report quite rightly raises the need to keep your emotions in check whilst going through divorce. Uncontrolled, they will have a negative impact on costs, the time it takes and the outcome of your case. However you might need help with the emotional side of your separation. Our culture does not encourage honesty about our real feelings when going through a crisis. We are very often ashamed to admit what we are feeling and try to suppress what is going on inside. But the emotional issues are the "tiger in the basement" and are ignored at your peril. Like your finances in this process they need proper management. Your lawyer should be able to direct you to trustworthy family consultants to help you process how and what you are feeling. Then you will be far better equipped to deal with the issues facing you and to make good decisions at a difficult time. A switchback of emotions at this time is entirely normal. It will be a wise decision and a sound investment for you, your family and your finances if you choose to seek this help whilst going through your separation.

#### 6. Communication

Clear communication and mutual trust between you and your lawyer is key - as the Report confirms. Establish with your lawyer at the beginning

- **who** will have conduct of your case and at what hourly rate
- **whether** there can be an arrangement for routine steps to be done at a lower rate by another member of the team
- **how** you can each be contacted and what is your preferred way of communicating - most clients like email but this is your choice
- **when** you are to expect certain steps to be taken in your case
- **what** information you will need to provide for your lawyer and **when** so they can provide an efficient and valuable service for you

- **make sure** you tell your lawyer about any changes in your situation / your family or your finances during your case as this may alter the process or the outcome

## **7. Mistakes**

Finally mistakes do happen occasionally. If you find your lawyer has made a mistake you must tell them immediately. You should expect them to put this right quickly and efficiently at no extra cost to you. If dealt with in this way there is usually no need to take the matter further.

If mistakes persist and your lawyer fails to put this right the law firm you have instructed will have a complaints procedure to follow to address these serious issues. Information about this should be included in your engagement letter at the beginning of your case. In the very worst cases where your complaint is ignored or not dealt with satisfactorily contact the Legal Ombudsman (tel number 0300 555 0333).

For further information please contact:

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