

You don't have to go to court – exploring other ways of resolving family law disputes.



Denise Head, Managing Partner and Family Law specialist at Bates Wells & Braithwaite Ipswich, explains...

Divorce and separation does not have to mean a war. Without going all Gwyneth Paltrow on you and suggesting that we are all capable of “conscious uncoupling”, (this was the term the actress and her now ex-husband used to announce the break-up of their marriage on her lifestyle website), a parting of the ways does not have to end up in court.

There are many divorced couples who have managed to retain a measure of family focus post-divorce: holidaying together, sitting around a Christmas table or even being side by side in a church pew when their child says, “I do”. From experience, I know that these scenarios are possible but sadly are not as common as they should be.

In reality, a failing relationship nearly always has an imbalance. One party usually feels more hurt and certainly more vulnerable.

Pain can power irrational and sometimes spiteful behaviour such as parents making it difficult for children to spend time with the other parent or closing off once jointly held funds, as a means of punishment and/or control or achieving their own ends.

The legal break up of a relationship benefits from professional support to help ensure a mutually agreed outcome which is both fair and sustainable for the parties involved and especially, the children. However, involving a family lawyer does not have to mean a court battle. In fact, most family professionals will say this is the absolute last resort.

There are many ways a family lawyer can help a separating couple come to an arrangement which suits both their needs and those of the wider family unit in a much more cost-effective way than going to court:

ALTERNATIVES TO COURT

- Simply working with your lawyers to identify your joint assets and key concerns, such as children, and work together through discussion and negotiation to come up with an outcome which you both feel comfortable with and allows you to move on to the next stage.
- Sometimes a little more intervention is required and so many of us are trained collaborative lawyers and we can work with our clients and other collaboratively trained professionals such as accountants, financial advisers or family therapists, to come up with an agreed course of action.
- Mediation is a good choice for those who value element of self-determination and who want to be able to sustain an amicable and working relationship in the future. As a trained mediator, I am able to help participants to reach decisions by mediating for them, keeping a balance of perspectives and encouraging calm and balanced discussion.
- Private FDR is when a “judge” (usually a senior family law barrister) provides a non-binding opinion which if accepted by both parties, might lead to an agreement which can then be made formal.
- Finally, arbitration is set to become increasingly used, especially for complex and high value divorces.

Most of all, it is important to have a solicitor you can trust will give you the best advice and information about the most suitable process for you and who wants to help you to reach the best outcome for you and your family, without costs becoming unmanageable and without making an already tense and difficult situation even more so. Our family team are specialist and experienced lawyers who are members of Resolution (an organisation that promotes a conciliatory approach) and are accredited Family Law and Children’s Panel lawyers, with the focus of the children’s and family’s best interests at the forefront of how we help our clients.

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FOR FURTHER INFORMATION CONTACT		
<p>Denise Head Partner/Solicitor & Mediator T 01473 219282 E denise.head@bates-wells.co.uk</p>	<p>Christopher Mason Head of Dispute Resolution T 01473 295524 E christopher.mason@bates-wells.co.uk</p>	<p>29 Lower Brook Street Ipswich, Suffolk IP4 1AQ</p>
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