

COST SAVINGS MADE POSSIBLE BY DIRECT ACCESS: A BRIEF CASE STUDY IN MATRIMONIAL FINANCE

This was a long-running and acrimonious case. Even though the asset values were relatively small, the level of debt and disputes as to who was responsible for them prevented settlement until the final hearing, which was listed for a full day. In total, there were 4 court hearings, including one to freeze assets.

One party was represented by solicitors and counsel throughout, and incurred total costs of about £30,000.

The other party was represented only intermittently, by direct access counsel only. That party had representation at the First Directions Appointment and the final hearing only, and incurred total costs of about £6,000, about 17% of the total costs incurred by both parties and about one fifth of those incurred by the other party.

That £6,000 included 2 conferences, on different days to the 2 hearings. Those conferences were needed to identify the issues and ensure that the necessary evidence was available and the other side made aware of the issues to be raised.

It is important to remember that a party represented intermittently in this way will have to deal with routine correspondence and the provision of financial information to the other side. It is very different to being represented by a solicitor who carries out every aspect of the preparation, including copying and preparing court bundles, and charges accordingly.

Generally, a direct access barrister does not have full conduct of and responsibility for the case in this way. Most restrict their work to representing clients at hearings and offering advice, but some will enter such an arrangement if asked to do so.

A solicitor will often instruct a barrister, and sometimes both barrister and solicitor will attend hearings, so there may well be some duplication of work and thus increased costs.

GET ADVICE AS EARLY AS POSSIBLE

It is sensible and in some cases essential to get advice at the start of the litigation process. Instructing a direct access barrister to represent a client at a final hearing which is very close can present serious problems because essential preparation may not have been done and the client may be disadvantaged as a result.

In those circumstances, knowing that the matter cannot be dealt with adequately, a direct access barrister may decline to act and the only option may be to seek an adjournment, which the court may refuse if it feels that the delay is not justified.