



## ONE SOLICITOR, ONE COUPLE

Until now it has been the norm for each party to instruct their own solicitor whose role is to advise them as an individual as to the best outcome. This means that under the traditional route, advice is given from one party's perspective alone. The "One solicitor, one couple" option allows one solicitor to advise you as a couple, setting out the law, the applicable principles and providing you with a set of settlement options.

If you are separating from your spouse or partner and there is an amicable relationship between you then this model should allow you to reach a legally binding settlement in a more time and cost-effective manner.

Where a solicitor is acting for two clients, their duty is to each of you equally; advice will be given to you as a couple in a way that differs from advising you as separate individuals.

### WHY THE "ONE SOLICITOR, ONE COUPLE" MODEL MIGHT WORK FOR YOU

If you are separating from your spouse or partner and there is an amicable relationship between you then this model should allow you to reach a legally binding settlement in a more time and cost-effective manner. Where you will jointly reach an agreement using this process it is also hoped that you will be able to maintain a civil relationship with your ex-spouse or partner, this might be of particular benefit if you have children together.

### KEY CONSIDERATIONS

Key to this approach is the need for transparency and openness. This means that we will need your joint consent at the outset to share with your spouse or partner all information divulged to us. There can be no secrets kept by us – everything must be out in the open. To ensure we comply with our professional obligations as solicitors, we must be satisfied that:

- You have a substantially common interest.
- You have each given your informed consent in writing to us acting for you as a couple.
- It is reasonable for us to act for you both.

### WHO WILL THIS WORK FOR?

This model will not be right for everyone. During our initial triage calls with each of you we will ask questions to help us evaluate if this is the correct approach for you both. Here are some (non-exhaustive) examples of when this approach will not be right for you:

- If we have acted for one of you previously, or have acted for a business or family member closely connected to one of you.
- If one of you expresses concerns about trusting the other, for example by doubting whether the other will provide all of the necessary information needed.
- If there has been domestic violence or coercive controlling behaviour.
- If we detect that one of you may have been pressured into taking this approach due wholly or in part to a power imbalance in the dynamic of your relationship.
- If you are already involved in litigation concerning other issues, for example in relation to your children, or in relation to a business you run together.
- If there are mental health or addiction issues afflicting one or both of you.
- If there are assets held wholly or in part by a third party who may have an interest in the overall settlement, for example a parent, company or trust.

### WHAT WILL THE PROCESS BE?

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- Initially we will check that there is no conflict created by any prior connections to the firm.
- We will then speak to (or meet) with each of you individually by way of a confidential triage meeting to assess your suitability as a couple for this model. You will each need to sign a separate formal letter of engagement at this stage. This meeting will be recorded so that we can review and reflect on our conversation.
- If we believe the model is suitable we will engage with you as a couple. A subsequent joint engagement letter will require you each to confirm that you explicitly consent:
  - To being advised as a couple, and not as two individuals.
  - To all information given to us being shared with each other.
  - To communicate openly in three-way emails, or in face-to-face meetings. Where you communicate individually with us, you consent to us forwarding your communication or forwarding an attendance note of any individual phone calls.
  - That the information disclosed within the process is subject to your joint privilege, meaning that neither of you can use or refer to it elsewhere without the express permission of the other.
- Alongside the joint engagement letter we will send you a "One solicitor, one couple agreement" which you will both also need to sign. This agreement reinforces what we can and cannot do as your joint solicitor, and also what is expected of you both.
- Once you have both signed the engagement letter and agreement, we will meet with you jointly to understand your respective objectives. We will also ask you both to collate and provide us with the necessary information that we need to be able to assess your overall financial position. It is likely that we will need to ask each of you some further questions to clarify things for us.
- In some cases we will need to seek advice from third party experts, for example in relation to tax, pension sharing and/or valuations (perhaps of property or companies).
- We will then provide a range of suitable options for settlement for you both to consider and discuss with each other, and with us.
- Having presented you with the options we will discuss with you jointly your views on the preferred terms of settlement and where necessary help you to overcome any differences.
- Once a choice has been made, we will prepare the necessary paperwork to formalise the settlement and submit it to the court for approval.
- If necessary we can also assist you in progressing the divorce application.

## WHAT IF THE PROCESS BREAKS DOWN?

- We will continuously assess the suitability of this process for you both.
- If at any point either one of you have concerns about the process we will explore this with you.
- We may also identify an issue (or potential issue) that may result in the process no longer being suitable for this model. If this occurs then we will be able to terminate your joint retainer with us, even if you both wish to proceed.
- Likely issues which would cause the process to break down are:
  - Either party refuses to give full and frank financial disclosure.
  - Your respective views on the broad terms of settlement are no longer aligned. Whilst we will help you overcome minor differences, a substantial dispute may jeopardise the process.
  - We believe that one of you is being unduly pressured into agreeing to settlement terms.
  - Disclosures are made about historic or ongoing emotional or physical abuse.
- In circumstances where the process breaks down, we will no longer be able to act for either party and you will each need to seek independent legal advice or decide to represent yourself. With the agreement of both parties we can provide new solicitors with the documents that have been prepared to date.

## WHAT WILL IT COST?

- Each party will be charged individually for the triage meeting at £200 plus VAT each.
- After the triage stage we will provide a detailed cost estimate, unique to your situation and the complexities involved.

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## KEY CONTACTS

For further information about any of the issues raised in this guide, please contact:



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The information contained in this guide is intended to be a general introductory summary of the subject matters covered only. It does not purport to be exhaustive, or to provide legal advice, and should not be used as a substitute for such advice.

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