The price of separation: Divorce related legal complaints and their causes

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Contents

Summary	01
Introduction	01
Managing cost	03
On the meter	05
Issues of quality	07
Putting it right	09
The matrimonial market	10
Conclusion	12
Case studies	13-20

01

Summary

Family disputes currently give rise to more complaints to the Legal Ombudsman than any other type of dispute. Around 18% of the complaints we investigate are about family law[1]. Of these, just over half are related to divorce. That is echoed by other findings about the level of customer satisfaction with divorce lawyers: for instance, research has found that dissatisfaction levels are higher in divorce cases (13%) than for other areas of law (average of 7%)[2].

The aim of this report is to attempt to cast some light on why divorce leads to higher levels of dissatisfaction and more complaints than other areas of legal service. What can lawyers – and consumers – do to avoid finding themselves in disputes about the service that has been provided? How can both parties protect themselves against deepening the distress of relationship breakdown with a subsequent dispute between lawyer and customer? And how will the coming changes to the legal sector – legislative, administrative and financial – impact on the situation?

[1] Legal Ombudsman, decisions and data – http://www.legalombudsman.org.uk/aboutus/complaints_data.html

[2] BDRC Continental 'Individual consumers legal needs report', page 102 – https://research.legalservicesboard.org.uk/wp-content/media/2012-Individual-consumers-legal-needs-report.pdf

Introduction

There are some obvious reasons why divorce gives rise to a relatively higher number of complaints. Divorce can be a deeply emotional event. Even the most consensual separation is likely to involve feelings of sadness, disappointment, and guilt, and separation may be non-consensual, involving allegations of betrayal, abuse, and infidelity. Strong emotions can naturally colour and shape the customer's approach to their legal service.

In addition to the emotions involved, there are some very immediate and practical issues to sort out. There is often a house to be dealt with, possessions to be divided, children, pets and friends to be negotiated about. And then there's money: savings, present income and future income to be calculated and suitable arrangements to be made.

It is against this background of emotion and practical need that couples facing divorce begin to engage with the formalities of law. Each partner has their own feelings, opinions and desires, which may well be in opposition to each other. Each will engage their own lawyer to help them negotiate what can feel like an opaque and sometimes unhelpful process of law. And each will be investing in that lawyer their hopes and desires as regards the outcome. This is the context in which divorce lawyers operate.

Often, lawyers are able to help guide customers sensitively through the emotional and practical minefield that is the divorce process, enabling them to focus on what is in their best interests. However, there are some occasions where the quality of service falls short. This can be for a variety of reasons.

This report seeks to illustrate the sorts of issues which can arise in divorce with eight case studies – the stories of real people who got divorced and then needed the Legal Ombudsman to help resolve an issue with their lawyer. Four are about the way the cost of a divorce can spiral out of control: poor cost information, excessive bills (as Miss A's story of excessive photocopying shows is possible), and the financial consequences of a lawyer's mistakes. Two are about the quality of the service provided, including one case where we referred a lawyer to the Solicitors Regulation Authority for misconduct. The final two are examples of the unrealistic expectations with which some customers approach lawyers and where they blame their lawyer for the outcome of a case rather than a mistake they themselves have made.

03

Managing cost

The largest area for complaints on divorce is cost; around one quarter of the divorce complaints we deal with are on this issue[3]. A BDRC legal benchmarking study recently estimated the average cost of divorce at around £1300 per person[4]. However, divorces range from the relatively straightforward to the complex. Moreover, the cost of divorce and the money spent on divorce lawyers can vary significantly. There are a number of reasons why the cost of obtaining a divorce can become an area for dispute.

Many divorces are relatively simple and straightforward. The separating partners may have agreed the shape of the settlement before the formal legal processes begin. If there is a high level of agreement, no children and few possessions to be divided up, a divorce can be speedy and low cost. Indeed, some are able to divorce without paying for a lawyer to represent them at all. However, where there are complex legal issues involving children, property, differential incomes and pensions, there is an increased risk of an unexpected rise in cost. What may have begun as a reasonably consensual process can sometimes spiral into protracted litigation and end up with the family assets being eaten up in legal expenditure.

In this context, it is vital that lawyer and customer work together to manage the cost of the service. Clear communication and mutual trust are key. If the lawyer does not appreciate the financial pressures on the customer, or the customer fails to keep an eye on the costs as they accumulate, the result can be that the lawyer ends up presenting the customer with a bill far higher than they expected and which they simply cannot pay.

The starting point should be that the lawyer provides a clear estimate about what the cost of the divorce might be at the beginning of a case. However, the BDRC study showed that roughly a fifth of customers (21%) were not given an estimate of costs when first consulted. While it is certainly difficult for a lawyer to provide a fixed price for a complex case with any certainty, and any estimate will need to be hedged around with caveats, there appears to be no good reason why a lawyer cannot at least provide a clear price for

[3] 27% of divorce related legal complaints to the Legal Ombudsman were about costs between 1 April – 31 December 2012

[4] BDRC Continental 'Individual consumers legal needs report', page 99 – https://research.legalservicesboard.org.uk/wp-content/media/2012-Individual-consumers-legal-needs-report.pdf

the initial work to be done, together with an estimate of the possible range of the ultimate cost of the divorce.

Whether or not an estimate is given, it is essential that the lawyer keeps the customer regularly updated as costs mount. Take **Mrs C's case**: for her divorce and the associated ancillary relief work, her lawyer estimated costs of around £10,000. However, by the end of the case she was asked to pay more than double this amount. The firm had provided no updates about her escalating costs since the initial estimate and no warning that the final bill would be so much higher than quoted. An ombudsman therefore decided the firm should reduce its final bill by around £15,000.

And given the current changes in the financing of divorce, there is an increasing need for lawyers to be conscious of the cost of the service they provide. Changes to legal aid mean that an estimated 200,000 fewer cases each year[5] will be eligible for publicly funded legal representation. People who previously were able to fall back on state help to fund their divorces will now have to fund them themselves; many low to middle income earners will have to manage their legal budgets carefully. There will also be an increasing onus on lawyers to help them do so.

An example of this type of issue can be seen in the **case of Miss A**. Miss A – unlike her relatively wealthy husband – was unemployed and funding her divorce by borrowing money from friends and using credit cards. Her law firm knew her financial position. Unfortunately, despite agreeing a budget with the firm at the start of the process, she was told to pay costs of £15,000 over what was agreed. This included £4,000 for photocopying. Given her limited means, she was unable to meet the firm's demands that she borrow the outstanding sum. When we investigated, an ombudsman decided that the firm had acted unreasonably and told it to waive its additional charges.

Cases like these are about more than just money. In both the cases above, it was clear that the emotional distress that Miss A and Mrs C had experienced during their divorce was deepened by the fact that they were also finding themselves in dispute with their lawyer. Although in both cases, it was the refund or reduction of fees which was central to the ombudsman's decision, in both too the ombudsman ordered some level of compensation to be paid for the additional distress caused by failing to manage the issue of costs. **Our guide for lawyers about costs** is intended to assist lawyers and prevent these situations occurring.

[5] BBC News 'Families hit by legal aid plans' – http://www.bbc.co.uk/news/business-17787359

05

On the meter

One of the reasons why costs can spiral out of control lies in the emotional rawness of many of those going through divorce proceedings. Divorce is often a lonely time, where someone is facing very real uncertainties and taking important decisions, yet in a state of deep emotion. In those circumstances, it is common for people to become inflexible or change their minds (and thus their instructions) during the divorce process. It is also common for them to rely heavily on the one individual who is both an expert in how to negotiate the process and who is seen to be on their side: their lawyer.

Most divorce lawyers understand this dependency and discharge their responsibility to provide a measure of emotional support and guidance conscientiously and with admirable sensitivity. But there is a tension in what lawyers do, which is particularly acute when it comes to divorce.

Law is a vocation, with lawyers bound by a professional obligation to act in the best interests of their client, even where that may not always be in line with what the customer is wanting at the time. A key legal role is to save customers from themselves, to guide them away from a course of action which may be destructive for them and persuade them to adopt a strategy with the best chance of enabling them to achieve their objectives. In the case of divorce, that may be to counsel them against prolonging the case or fighting an unwinnable fight: persuading them that although they are angry and upset at their spouse's behaviour, court may not be the best place to fight out those emotions.

But law is also a business, and lawyers in an increasingly competitive and financially challenging market need to maximise their returns to survive. In a context where charging is usually still done on the basis of time spent rather than results achieved, time spent lending a supportive ear and corresponding with the other side soon mounts up in billable costs. Brutally put, cases which result in lengthy court hearings are often more profitable than cases which settle early.

These two pressures, then – the vocational and the financial – can be in tension. Good lawyers, the majority of those with whom we deal, manage these tensions with admirable deftness. But some lawyers, whether through their own inability or inexperience or because they are put under pressure by customers, allow cases to be prolonged unnecessarily.

In some of the cases we see, divorcing couples are clearly committed to pursuing their case whatever the consequences until the case becomes a 'divorce of attrition'. If this happens, lawyers can appear to be the only ones to benefit. **Take Mrs B's case**: as neither she nor her husband was willing to compromise on what they wanted, her costs soon mounted. She was drawn into an acrimonious, drawn out legal battle and at the end of the case she found to her horror that the final bill was nearly £70,000.

After we investigated her case, we found that the firm's service overall had been reasonable. They had also correctly charged for the work they had carried out. However, the firm had neither sought to challenge Mrs B's approach nor inform her of her mounting costs – even when it became apparent that the cost would substantially exceed the original estimate. Consequently, we agreed an informal resolution with the firm and they reduced the bill by £30,000.

For lawyers, the lesson here is to prioritise the need to help customers manage their case. However, in some cases, the lawyer has clearly done everything possible to dissuade the customer from pursuing an unacheiveable objective or unreasonable course of action. In those instances, the customer has to take responsibility for the outcome.

Take the **case of Mrs G**: despite being advised that she could reasonably expect around 50% of her and her estranged husband's joint assets and £500 a month for spousal maintenance, Mrs G insisted she would hold out for 70% and £700 a month. When things didn't work out as she had hoped, Mrs G complained about her lawyer to us. However, an ombudsman judged that the firm had given balanced and clear advice and had ultimately acted in her best interests. It was therefore decided that no poor service had been provided.

Issues of quality

In many of the complaints we investigate, money is the central issue. However, issues of quality are also significant.

Whether or not a lawyer has a reputation for delivering quality is clearly vitally important to customers: in the BDRC study 62% of legal service users said that reputation was key – making it the biggest single driver for choosing a lawyer. And reputation is influenced most heavily by the standard of service being provided. Despite this, we see numerous cases in which service levels simply aren't good enough.

Around 18% of divorce related complaints are about the lawyer failing to provide adequate legal advice[6]. Where we found poor service in this area, the key issue was often the poor standard of information provided to the customer. Sometimes, this lack of care and attention can have serious consequences. Take **Ms E's case**: the extent of her lawyer's errors and oversights meant that after months of getting nowhere in her divorce case, she eventually had to instruct another firm, incurring significant delays and costs. Ms E suffered with depression and anxiety, which she blamed on her lawyer's failings. After investigating, an ombudsman decided that she should be reimbursed for fees, court costs and the cost of the additional work carried out by the second law firm, as well receiving compensation for her considerable distress.

The lawyer was also reported to the Solicitors Regulation Authority for suspected misconduct.

Another example is **Mr D's case**: he instructed someone he believed to be a 'divorce specialist' only to be on the receiving end of a catalogue of errors. At the same time, costs were building up without his knowledge.

We found that the lawyer in fact knew very little about matrimonial law. He had been using Mr D's money to pay a barrister to carry out simple tasks and had lost key documents. We ordered the lawyer to waive some of the outstanding fees and to award Mr D compensation for distress and inconvenience.

[6] 18% of matrimonial related legal complaints to the Legal Ombudsman were about a failure to provide adequate legal advice between 1 April - 31 December 2012

And of course, issues do not just arise because of the behaviour of lawyers. Sometimes it is the customer whose behaviour creates the problem. Take **Mrs H's case**: she was unhappy with the settlement she received following her divorce and blamed her law firm's failure to make more of her husband's alleged abusive past.

However, it came to light that Mrs H had written affectionate letters to her husband during the divorce proceedings, making it difficult to convince the court that he was abusive and that she was scared of him. Following an investigation we found that the firm had acted reasonably – Mrs H should have told them about her correspondence. If a customer does not communicate properly with the lawyer, they cannot quibble if they do not get the result they want.

Putting it right

Central to the Legal Ombudsman's approach to instances of poor service is seeking to put the complainant back in the position they would have been in had the service been adequate. That is not always possible. In many cases we see, although there has been poor service, it is of a relatively minor sort and there is no connection between the service failures we identify and the disappointing case outcome that may have prompted the complaint in the first place. Minor delays, unimportant slips and overcharging are unlikely to have had any real effect on the judge's decision yet they can be blamed by unhappy complainants for the fact that they did not get the settlement they sought. It is therefore not uncommon for an ombudsman's decision to be rejected by the complainant even where poor service has been identified.

Where the poor service has resulted in a direct financial loss, imposing an appropriate remedy is usually possible. Take the case of Ms F, who had to spend money putting her lawyer's mistakes right after he incorrectly advised her to sign a consent order. The mistake meant that Ms F would not receive money from all of her husband's pension schemes (to which she was entitled), leaving her out of pocket. To make matters worse, the firm failed to take Ms F's complaint seriously meaning she had to bring it to the Legal Ombudsman. Once we had investigated, we were able to achieve an informal resolution by getting the firm to agree on a reimbursement of £6,500.

The firm could have saved themselves the time and expense of responding to an Ombudsman investigation if they had resolved the issues when Ms F raised her initial complaint.

The matrimonial market

The sorts of themes this report has been discussing are the product of the existing divorce market. However, that market is changing rapidly. How should consumers react and how should lawyers respond? Will those developments help or hinder the situation?

Some of the changes may increase pressure on lawyers and consumers. The removal of legal aid will inevitably put pressure on service providers to come up with ways of bridging the affordability gap for many people seeking a divorce.

The emergence of high street brands and Alternative Business Structures (ABS) in recent years has already seen innovations in the way legal services are provided and paid for. Fixed price services, for example, at least give customers a different option to consider when managing a modest budget[7], while online divorce packages may help to reduce costs by cutting down on overheads as long as what they offer meets that particular consumer's needs. However, there are pros and cons to all of these services - if we begin to see the emergence of complex financing and legal service structures, with divorce being funded by cheap loans or insurance products, there are dangers of misselling and hidden costs.

There is also the danger of customers being confused about where to turn for help if they experience problems: if divorce services are delivered in bank branches and funded by bank loans, many complainants will naturally assume that their avenue for redress sits with the Financial rather than the Legal Ombudsman.

Some new business models cut down on cost by centralising services and reducing customers' access to face to face advice. Such models can work well for many customers. However, understandably in what is often a stressful time, many people value face to face contact. Research indicates that almost half (45%) of people instructing a divorce lawyer factor the convenience of where they are located into the decision[8]. This could be due to the protracted nature of divorce; going backwards and forwards to sign documents, discuss court proceedings and so on will take its toll during a long distance customer-lawyer relationship. Or it could be that as divorce is a very personal matter, customers value a face to face service.

[7] Legal Futures 'Co-op launches fixed-fee family law service' – http://www.legalfutures.co.uk/latest-news/co-op-launches-fixed-fee-family-law-service

[8] BDRC Continental 'Individual consumers legal needs report', page 96 – https://research.legalservicesboard.org.uk/wp-content/media/2012-Individual-consumers-legal-needs-report.pdf

The matrimonial market - continued

Either way, the location of a lawyer may also affect costs as any court hearings or mediation meetings would need to be local to the customer: a lawyer may charge for their travel time and expenses to attend them.

Face to face meetings might also be important where a complex case needs to be explained – it is no doubt reassuring to know we have our lawyer's full attention, which can be harder to gauge over the phone or by email. But of course, different models have pros and cons, and people will ultimately choose a service that suits their circumstances.

For some people, DIY or online solutions will be increasingly attractive[9]. This may also lead to an increase in the number of people representing themselves in court. We'll be monitoring our data closely to see what, if any, impact it has on the number and type of complaints we receive. Where people are interacting with online services or purchasing DIY kits, the limits of regulation and our powers of redress become difficult to draw and there is a danger that customers may mistakenly believe that they are buying a regulated service with a guarantee of support if something goes wrong.

On a more positive note, the Ministry of Justice (MoJ) recently announced that an additional £10 million will be made available to help separating couples avoid court battles where possible through increased access to mediation[10]. Assuming that couples can come to some agreement about how assets and access to children will be divided, mediation can offer a simpler and cheaper route to sorting out the types of problem that typically beset the process of divorce. Though it is useful for some people, it may not work for all couples in all circumstances. As we resolve complaints about mediation lawyers, we will again be watching how this affects the Legal Ombudsman's business.

Of course, mediation is very much based on the assumption that separating couples can put the bitterness and hurt aside for the greater good of everyone involved. As our case studies have shown, sadly this is not always possible.

[9] The Independent 'DIY divorces set to surge as legal aid vanishes' – http://www.independent.co.uk/news/uk/home-news/diy-divorces-set-to-surge-as-legal-aid-vanishes-8439826.html

[10] Ministry of Justice – http://www.justice.gov.uk/news/press-releases/moj/additional-10-million-to-fund-mediation-and-help-separating-couples-avoid-court-battles

Conclusion

As this report illustrates, there are very good reasons why we can expect there to be more complaints about divorce than almost any other area of law. However, it is possible for lawyers and customers to manage the risks inherent in divorce better.

For the lawyer, more work could be done to reduce complaints about cost. Giving proper estimates, updating customers regularly on costs, encouraging customers to manage costs better themselves, ensuring that they put the interests of a customer first: all these are vital to avoiding complaints. We hope that by highlighting some of the issues around divorce cases and costs (illustrated by the case studies in this report) and by re-publishing our lawyer's guide to complaints about costs, we will assist lawyers to prevent complaints arising in the first place.

As the market changes we've looked at come to fruition, the need for sensible cost estimates and regular updates throughout a case will become more pressing, not less so. And the reasons for good costs practice stack up: improved reputation, less complaints and potentially more business through recommendations. Though obvious, some lawyers still undervalue good service and effective complaint handling procedures as a means of retaining and gaining customers.

With the possibility of more individuals representing themselves in the future, lawyers will be hoping that new ways of funding help to bring in customers. Providing decent service levels will also help to improve consumer confidence, so that those with the means to pay are persuaded to do so.

For those seeking a divorce, the lessons are equally important. As hard as it must be to keep emotions in check, the lessons from this report all point towards the necessity for divorcing couples to try. Taking an objective approach and setting realistic objectives at the start of a case could be the difference between £10,000 and £50,000 worth of legal fees.

It will also be prudent for customers to keep tabs on how much they are spending throughout a case and to think carefully about what work they are committing themselves to paying for. Fortunately, for any customers who do find themselves caught out by unexpected costs or subject to any other aspect of poor service, and where the lawyer is at fault, the Legal Ombudsman is here to help.

Case studies - Costs excessive or costs information deficient

1. Divorce dire straits

Miss A needed a lawyer to help oversee divorce proceedings, which included both financial matters and issues around access to her child. Little did she know it would end in tears and considerable worry over her family's welfare, not to mention an invoice for £4,000 worth of photocopying.

The first law firm that Miss A instructed turned out to be very poor. Although she'd already accrued some costs using them, she decided to pay the outstanding bill and then use a different firm.

Miss A settled on a second firm after shopping around for what she thought would be an affordable, reputable divorce specialist.

She met with the firm and discussed costs. She was conscious of the fact that she had recently been made redundant and that her husband had considerably greater funds to draw on given his high paying job. However, she needed to get the best outcome for her and her child. So, despite having used much of her redundancy money on the first law firm Miss A borrowed money from friends and used credit cards to pay the second firm.

Miss A explained that once this money had gone she had nothing else; so, everything would need to be achieved within the specified budget. The law firm agreed to act on behalf of Miss A under this arrangement.

Unfortunately, court proceedings dragged on and Miss A's money was quickly swallowed up. Miss A asked the firm to stop since she simply couldn't afford any further work. Despite this, the firm continued acting without her consent before eventually hitting her with an invoice for £15,000.

Miss A did not have this money. She complained to the firm but they rejected it, even using aggressive letters to insist she would have to pay the outstanding costs. Miss A was so distressed, she worried more than ever about her child's welfare given her dwindling funds and growing debt.

Finally, Miss A brought her complaint to us. We investigated and agreed that the firm had acted unreasonably, particularly in continuing to accrue costs when they had specifically been asked not to do any more work. An investigator also discovered, after going through an itemised bill, that the firm's costs included an enormous £4,000 for photocopying.

The firm contested the investigator's remedy, which was for the firm to waive the outstanding £15,000, and so it went to an ombudsman decision. The ombudsman agreed the firm should waive the final bill and they were ordered to do so.

2. Divorce of attrition

After struggling for some years to keep her marriage together, Mrs B finally accepted things wouldn't work out and instructed a firm to represent her in divorce proceedings.

At first, the firm told Mrs B that the work would cost somewhere between £5,000 and £30,000. Provided that her husband didn't contest the divorce and the work was straightforward, the cost would be towards the lower end of the estimate.

As it turned out, the divorce wasn't straightforward – Mr B was uncompromising. Consequently, Mrs B was dragged into an acrimonious, drawn out legal battle. The divorce ended up taking over a year, with half a dozen court appearances. By the time that Mrs B complained, the court order still hadn't been finalised.

Mrs B was unhappy with a number of aspects of the service she had received, but her main complaint concerned the cost. In the course of the year, her costs had increased dramatically. In fact, even though Mrs B had been paying the firm regularly, she found to her horror that the final bill was nearly £70,000. Mrs B complained and the firm offered to reduce the bill, but Mrs B wasn't satisfied with their offer.

When we investigated, we found that, overall, the firm's service had been reasonable. They had dealt as best they could with what turned out to be a very bitter and complicated divorce.

However, they hadn't provided Mrs B with regular costs updates, even though the work they were doing meant that those costs were increasing dramatically. Our investigator considered the evidence and was able to help Mrs A and the firm reach an informal resolution. The firm agreed to reduce the bill by £30,000, which Mrs A accepted. This left her with a little under £40,000 to pay.

3. Ancillary relief

Mrs C had a number of family matters for which she required legal advice, so she approached a firm following a friend's recommendation.

The firm provided the initial advice she was after and Mrs C went on to instruct them in a number of matters, including her divorce and ancillary relief. The other matters included applying for access and residence orders, as well as defending against similar applications that her husband was making. The overall estimate for the work was £10,000.

Work progressed and seemed to be going well. The firm instructed a barrister to provide advice, which Mrs C paid for. However, Mrs C became uneasy about how much the work was costing her – not just the cost of things like the barrister's advice but also the cost of the work the firm itself was doing. She continued paying the bills despite not being told about certain costs in advance. However, Mrs C eventually complained, asking for a detailed breakdown of all the costs.

When we investigated, we found that the work the firm had done seemed to be reasonable; however the costs situation was confusing, probably because the firm was dealing with more than one matter at once.

We found that the firm hadn't kept Mrs C adequately informed about how her costs were increasing – they had sent her bills but we couldn't see any evidence that they had discussed the position with her in advance. Without this, she wasn't in a position to fully understand her financial commitments or make informed decisions about the case. An ombudsman decided that the firm should limit its outstanding fees, so that the amount Mrs C owed was just over £5,000. This meant that the total bill was reduced by about £15,000.

4. Pricey and dicey

Mr D instructed a law firm to oversee his divorce after an initial consultation in which the lawyer claimed to be a specialist in matrimonial law. Unfortunately, Mr D eventually discovered that the lawyer knew very little about matrimonial law, leading to a catalogue of errors and escalating costs.

Due to the lawyer's lack of knowledge he continually misinformed Mr D about his likelihood of success. This raised Mr D's expectations, but they were quickly dashed following a court decision to reject his application. The lawyer had also been hiring a barrister to complete simple forms at extra cost to Mr D. He claimed that had the firm known what they were doing they could have done the work themselves.

The firm frequently failed to respond to telephone calls and emails and managed to lose some of Mr D's documents. To add insult to injury, the firm had been building significant costs throughout the case without giving Mr D any updates.

It turned out that Mr D hadn't received a client care letter or proper information about charges when he gave instructions to the firm. They had given Mr D a rough estimation during the first consultation but by the end of the case his costs had exceeded this significantly.

We looked into the case and agreed that Mr D had received poor service. In particular, he had been misled about the firm's expertise and how much his case was going to cost. As Mr D had only paid for some of the work, an ombudsman decided the firm should waive any outstanding fees and give Mr D some compensation for distress and inconvenience. The total financial award came to over £5000.

Case studies - Lawyer mistakes and poor information

5. The break-up blues

Ms E used a small high street law firm to help her file for divorce. Unfortunately her case was strewn with errors, oversights and conduct issues on the part of the lawyer assigned to her case. Ms E was eventually left with depression and sickness as a result of the unnecessary worry she had to go through.

Things went wrong right from the off as the lawyer failed to tell Ms E about a court date. The lawyer had also failed to pass the required signed documents to her husband's representatives.

Ms E raised concerns but was assured the service would improve so she persevered.

However, at a related financial hearing the lawyer appeared completely unprepared and he also appeared to have been drinking. He subsequently failed to pass on all the information required to give Ms E the best chance of success in her case.

As a result she felt pressured to sign a financial settlement, despite not being completely happy with it. She decided to go along with the settlement just to get the whole ordeal over with. However, the lawyer even managed to mess this up. He failed to complete all relevant sections of the paperwork and represented Ms E using her maiden name, which made the whole document null and void.

In the end Ms E had to instruct a new law firm to complete proceedings for her. This incurred considerable delays and additional costs. By this time Ms E was suffering with depression and anxiety. She wondered how much more she could take.

After unsuccessfully complaining to her lawyer Ms E brought her complaint to the Legal Ombudsman. We agreed that the service she had received was poor and ordered the firm to reimburse fees, court costs and the additional work carried out by a different law firm to the value of £5000. We also awarded Ms E £500 in compensation for the distress and inconvenience caused.

As the lawyer had allegedly been drinking while attending court we also forwarded details of the case to the Solicitors Regulation Authority for potential misconduct.

6. Confused consent

Ms F instructed a firm in her divorce and the associated financial matters.

The divorce went reasonably smoothly, all things considered, and Ms F and her ex-husband decided to settle their finances with a consent order. One aspect of this involved negotiating what proportion of her ex-husband's pension Ms C would be entitled to.

In fact, Ms F's ex-husband had more than one pension and Ms F assumed – because that was what she thought had been agreed between the firm and her ex-husband's solicitors – that she would receive half of all of the pensions. However, the way the consent order was drafted didn't make it clear and, when the firm asked her to approve an amendment they had made to it, she agreed.

The consent order should've contained the policy numbers and details for all of her ex-husband's pensions – it transpired that the order she signed didn't. When Ms F was made aware of the problem, after speaking to a financial advisor, she complained to the firm. The firm denied any wrongdoing.

Ms F was able to go back to court to sort out the problem, but it cost time and money. When we investigated, we found that the firm had failed to properly explain the order to Ms F, or to ensure that everyone was aware of the effect of the order in terms of the pension sharing. Nor did they help or advise Ms F once the problem came to light.

The investigator suggested that the firm should reimburse £6,500 of the money that she had paid them to reflect the poor service they had provided. Ms F and the firm agreed that this was a fair resolution.

Case studies - No poor service/ unreasonable expectations

7. Sound advice, poor choice

When a firm was instructed to help with Mrs G's divorce everything appeared to be going well at the start. The firm asked Mrs G to provide the full facts and figures relating to her finances and having reviewed her and her husband's details, the firm said she could expect around 50% of the joint assets, and £500 a month for spousal maintenance.

Mrs G responded, saying she would hold out for £700 per month spousal maintenance, and 70% of the joint assets. The firm agreed to put this to her husband. Her offer was rejected, and mediation did not seem to be getting them anywhere. Mrs G sought further advice, and wanted to continue to push for her original offer. The case was eventually scheduled to appear in court.

Before the hearing Mrs G sought assurance that she would be successful if she continued. The firm explained that they could not do this, nor had they ever been able to guarantee an outcome. Mrs G was advised to seek alternative advice if she was concerned about the advice given to her.

The court case continued and the firm gave further advice to Mrs G in order to try to resolve the case. She felt that they had gone back on their previous advice, and were now siding with her husband. Mrs G raised a complaint with the firm and settled the case by herself without further instructions to the firm. Then she brought her complaint to us.

Having looked into the matter, we felt that the firm gave balanced and clear advice, and were ultimately looking to obtain the best settlement possible. We did not find evidence that they had guaranteed Mrs G any outcome. The firm, in response to Mrs G's complaints, had already offered her £400 as a goodwill gesture, which she had not accepted. As we did not find there had been any poor service, we did not ask the firm to make the payment, but suggested Mrs G discuss this with the firm to see if the offer was still open.

8. An unlikely story

Mrs H instructed a firm to help with both her divorce and the subsequent financial settlement. After receiving a settlement of around half of her and her ex-husband's assets Mrs H complained that the firm failed to get her what she deserved – in particular she blamed the firm's failure to make more of her husband's alleged abusive past.

However, it came to light in court that Mrs H had written affectionate letters to her husband during the course of the divorce, making it difficult to convince the court that he was abusive and that she was frightened of him.

Nevertheless, Mrs H complained that she had wasted £30,000 in striving for a better settlement and wouldn't have had to attend the hearings if the firm advised her properly.

Mrs H wanted the firm to apologise and to pay compensation for the distress they had caused her.

Following an investigation, we found that the firm had acted reasonably – Mrs H should have told them about her correspondence. The ombudsman agreed and noted that the nature of the letters to her husband contrasted with her witness statement against him, which made it unlikely that the court would order the financial settlement she wanted. Mrs H rejected the ombudsman's decision.

How to contact us
We are open Monday to Friday between 8.30am and 5.30pm.
If you are calling from overseas, please call +44 121 245 3050.
For our minicom call 0300 555 1777.

You can call us on **0300 555 0333**
(Calls to the Legal Ombudsman cost the same as a normal 01 or 02 landline number, even from a mobile phone, and are recorded for training and monitoring purposes).

You can also email us at
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