



THE DIVORCE SURGERY AND VIDEO LINK ADR

1. We are in unprecedented times. As a profession we need to respond quickly. Remote working is not enough. We need to enable our clients to litigate remotely, and settle cases remotely.
2. This short briefing note is intended to highlight to the profession and judiciary what services The Divorce Surgery offers which fit with self-isolation.
3. The Divorce Surgery was set up, as many of you know, to offer couples the ability to get legal advice together from one impartial barrister they both instruct. However, another aspect of the service is that every part of the process can be conducted remotely.

ADR Services which can be offered remotely by The Divorce Surgery

4. We are most associated with giving couples advice together, at the earliest stages of their separation, as to what a Court outcome in their situation would look like. Our process is suitable for most finance cases, and private law cases with no serious safeguarding issues.
5. We also regularly see clients who are already involved in Court proceedings.
6. **The key steps in our process** (which usually takes **6-8 weeks**) are as follows:
 - a. We undertake a video link call with each party separately (we call these **Introductory Sessions**). This is free of charge, and is to ensure they are suitable for the process, and to ascertain the complexity of the case and the seniority of barrister required to advise. Where couples are represented, we can also offer a video call with both solicitors together, either before or after we speak to the couple, to get a clear understanding of what the issues are and what the likely prep will involve for the advising barrister.
 - b. We then email the couple a number of suggested barristers and a fixed fee quote for the whole process. Fees start at **£4,750 plus VAT**. We use barristers from across the profession. If couples have preferences, we can consider those.
 - c. We can assist couples with disclosure: Form E in finance cases and necessary background in a children case. Financial disclosure is provided on an open basis, save for proposals and subjective assessments of need which we treat as privileged.

Where clients are both represented they have often prepared their disclosure, but we may ask for additional information to be provided, depending on the issues, on a privileged basis.

- d. Once the disclosure is in the couple will proceed to the **Advice Session**, a privileged video link meeting with their advising barrister lasting 2-3 hours in which the barrister sets out a detailed analysis of the law and what he/she considers a Court would be likely to consider fair / appropriate. These are specific brackets of outcome, much more detailed, for instance, than an FDR indication.
 - e. This is followed by a comprehensive (circa 15-20 page) **written advice**, which is privileged.
 - f. In more complex finance cases we offer clients the opportunity to book a **Disclosure Session** with their advising barrister, before the Advice Session, which will be a video link conference analysing the disclosure, its completeness and/or the need for further disclosure/valuations/advice e.g. on tax to be obtained.
 - g. **Our experience is that most couples who go through our process take the written advice into either mediation, accelerated RTMs, or settlement via correspondence**, using the clearly defined parameters for settlement. If either side wishes to go back on anything within the written advice, we offer one round of questions within the fixed fee.
7. **The key differentiators** of our service from other ADR options are as follows:
- a. Couples attend the Advice Sessions (via video link) but without their legal teams. We consider this to be vital, as it **encourages couples not only actively to engage but also to take responsibility for their own decision making** in any settlement discussions.
 - b. Our process does not include negotiation. For this reason we can keep costs fixed. But other advantages are that we remove the stress and urgency from the room, which can sometimes be unhelpful in an FDR/DRA environment. We think the ideal timetable is to arrange a RTM or mediation a week after the Advice Session, **so the written advice can be reviewed and start to sink in before negotiations commence**.
 - c. Costs are fixed, transparent and shared by the couple. Because we do not involve solely-instructed lawyers in the Advice Sessions, **the overall costs are usually much lower than private FDRs and arbitration**.
8. Please contact Harry or Sam if you would like to discuss this at all. We are more than happy to help. And stay safe everyone.