

The Role of a Barrister

In November Debbie Hillman of Kent Family Mediation Service interviewed a Kent Barrister to find out about the role of a Barrister and how a Barrister might be involved in a Family Law case which has ended up going through the Court System.

Q. What does your role as a Barrister involve?

A. Primarily, it is my role to speak on behalf of clients in court. I am instructed by a solicitor, who meets with the client initially and takes details of their case and formulates the evidence. It is then my job to analyse that evidence, identifying the strengths and weaknesses of the case, so I can then present it in court to the client's best advantage.

Q. What type of cases do you see go through Court?

A. My practice is solely in family law, so I deal with care proceedings, residence and contact etc.

Q. What happens in Court?

A. The tribunal - either a Judge or Lay Magistrates hears the case, as presented by each party. Usually there are a number of short hearings before the final hearing, at which evidence is heard and a judgment is given.

Q. Who else is usually in the Courtroom and is the Court open to members of the public?

A. In court will be the Judge (or Magistrates), the Court Clerk and Court Usher, the parties and their legal representatives. Family courts usually sit "in Chambers", which means that members of the public are not allowed to enter. This is because family law proceedings usually relate to a child or children, and the court sits in chambers to protect the child's anonymity.

Q. What can someone expect from going to Court?

A. The court is there to resolve conflicts between parties. If they are unable to reach agreement, the court will make a decision for them. In some cases, expert reports, such as psychological or psychiatric reports, will be ordered to assist the court in coming to a decision.

It depends very much on the individual case, but usually court proceedings last for months, particularly if CAFCASS is directed to prepare a report on the family's circumstances and/or the wishes and feelings of any children concerned.

Cafcass is the Children and Family Courts advisory and support service. It is a non-departmental public body for England and Wales that has been set up to promote and safeguard the welfare of children involved in family court proceedings.

Q. What do you think about Family Mediation?

A. Mediation offers people a different route, and can be a positive experience. In cases where parents or family members are not able to communicate effectively, mediation enables them to keep the decision-making process in their own hands. It can also be much quicker and less expensive than court proceedings.

Q. What do the Courts think about mediation?

A. In my experience, courts generally think positively about mediation, and often encourage parties to consider entering into it. However, mediation is not always suitable for all cases, for example where there has been serious domestic abuse.

Q. What do you think about the recent Legal Aid cuts?

A. I think it must come as quite a shock to members of the public to discover that it is no longer possible for them to obtain Legal Aid for private law family court proceedings or legal advice, save in certain circumstances. There is concern generally that these cuts potentially restrict people's access to justice.

However, Legal Aid is still available for family mediation. If you mediate and are eligible for legal aid there is the added advantage of free legal advice alongside mediation. It would be helpful to families in dispute if this information was more actively and widely distributed and promoted.

Q. What impact has this had on the Courts?

A. The impact is just beginning to filter through. An obvious consequence is that the courts are seeing more people representing themselves in court i.e. litigants in person. As these litigants are not experienced advocates and are unfamiliar with court practices and procedures, court proceedings can be much slower and take longer.

The aim of mediation is to keep family arguments out of court. If you would like to talk to us in confidence about your own issues, please contact the office on 01795 410457 or click [HERE](#) to use our contact form to request a call back at a time that is convenient to you.