

# Case Study

## Using mediation instead of litigation to work out divorce arrangements

### **Background**

Noel and Sarah split up when Sarah ended the marriage. The relationship had steadily gone downhill for the previous 3 years. They had been married for 8 years. They were still living in the same house and the situation had become untenable because Noel was getting drunk and becoming abusive most evenings. They had a 5 year old daughter.

### **Noel's story**

Noel met Sarah and fell in love immediately. Sarah was in the UK travelling. They married when her visa was about to expire. At first the relationship was idyllic and they had lots of fun. They bought a house and focussed on doing it up. The costs mounted and Noel, who was self employed, felt enormous pressure to earn enough money to keep up with the mounting debts. After their daughter was born, Noel found the responsibility of being a provider, father and husband too much. Though he couldn't admit to it, everyday seemed like an immense struggle.

### **Sarah's story**

Sarah was over the moon when Noel proposed. The thought of making a life in the UK with Noel was a dream come true. They got married and bought a house. Sarah had a good job. She had a child and everything seemed great. Sarah loved being a mother so much that she decided not to go back to work. Noel's business was doing well and all seemed fine. Sarah noticed that Noel was less and less interested in family life. Sex between them became non-existent and communication was reduced to small talk. Sarah felt she was treading on eggshells around Noel and one day she ended the marriage.

### **The marriage break down**

Neither of them wanted to leave the house; it was more convenient to remain for the child's sake. However, over time Noel began to drink

and Sarah felt threatened by his outbursts. She began to stay at a friend's house taking their daughter with her. This was not a good arrangement for anyone so the time had come to make decisions about their future.

### **The Mediation**

It was very clear that this was not going to resolve in one session. The mediator arranged a series of sessions alternating one to one and joint. The sessions took place over 6 months.

Initially the couple tried negotiating over the house and provision for the child. It was obvious that there was so much unfinished business in the relationship that they could not find a meeting point. Noel also had an underlying fear that Sarah might go back to her home country and take their daughter with her.

The mediator spent time with them unpicking the gradual breakdown and the miscommunication between them. Noel came to understand that in his efforts to be a 'good' provider he had suppressed his underlying fear of failure. Sarah had never considered that Noel might be worried because he always seemed very confident. They were both shocked at the misunderstanding that had passed between them and able to jointly mourn the mistakes of the marriage. This unblocked the negotiations and arrangements were simple and straightforward. Noel's fear was unfounded.

### **Outcomes**

Through mediation they were able to take written agreements to a lawyer to process through the court at minimum cost. More importantly they were able to move on from the marriage without hostility and protect the interests of the child as co-parents. Both agreed that the six months spent in mediation were more productive and cost effective than fighting a battle through lawyers.