

MINUTE OF AGREEMENT: COSTS & TIMESCALES



Clients can often underestimate the work involved in this process. The amount of time to complete the process can vary significantly from case to case. Solicitors have a large volume of clients, with the majority of our work being matrimonial. This means that the majority of cases will have common themes, with clients who are anxious and emotional. Time scales for solicitors need to consider the aforementioned. Clients can forget that we have many cases where our assistance is needed. We must divide our time fairly and prioritise where necessary.

THE WORDING - WHAT TO CONSIDER

The wording in a Minute of Agreement must be considered and tailored to suit the particular client's needs. Items that may seem minor to a client must still be fully considered within the wording of the Minute of Agreement. The document is there to protect parties from future claims and is a legally binding contract. It needs to be clear, unambiguous and enforceable in a court of law, if necessary.

HOW LONG WILL IT TAKE?

The length of the process depends upon the level of engagement on both sides. A Minute of Agreement is a two-sided transaction and progress on each side is dependent upon the other engaging and cooperating. It is not rare for one party to be more enthusiastic than the other about progressing towards a conclusion. This can lead to delays in instructions being provided, which slows the process. Given the remedy to one party prolonging matters is court action, it is far more cost-efficient for a client to wait until the other party engages. This can be frustrating, but unavoidable if increasing legal costs are unaffordable.

The length of time to complete the process can also depend on the complexities/level of assets. Solicitors often need to await information from third parties, or take time to consider information from clients/third parties to ensure the wording of the Minute of Agreement is fully protecting their client's interests.

Notwithstanding two parties being in agreement, the process of ensuring your client is protected fully must be undertaken with due diligence and care.

The work to be undertaken can be a time-consuming task and it is rare for the whole process to be undertaken in less than three months. Often, it can take several months, and in some cases, years to negotiate a successful outcome.

WHAT ARE THE COSTS INVOLVED?

The costs of the Minute of Agreement process are not likely to be less than £1200 plus VAT, and are more likely to be in the region of £1,500 – £2,000 plus VAT. Negotiations that go on for several months or years will cost substantially more.

There are certain cases where the Minute of Agreement process can and will be undertaken against a strict deadline if a case arises out of urgency. An example would be where two parties have sold a joint property without advising the estate agent/ conveyancer that they are separating. It is then discovered, in the worst-case scenario, after missives are concluded – that a Minute of Agreement is needed. In those circumstances, clients can instruct solicitors in a very stressed state, having to meet an urgent deadline. When both parties and solicitors are focused on that deadline, then priority can be given over and above other cases to ensure the deadline is met.

Unfortunately, the aforementioned urgent scenario often results in one party receiving a settlement which may not reflect their full entitlement. This is because the pressure of time removes the ability of solicitors to negotiate effectively, with both parties wanting/ needing the house sale completed. As a result, arguments over what is a fair division of the assets are not/ cannot be pursued. A lack of knowledge surrounding the legal implications of selling a joint property during a separation can lead to significant issues.



SEEKING PROFESSIONAL ADVICE

Often, a client does not know what they are entitled to claim until they get advice. What they thought to be a fair settlement with a spouse or partner can turn out to ignore vital elements of matrimonial law. Getting advice at an early stage can avoid this.

It is the job of the solicitor to listen to the client's specific circumstances, offer advice in relation to those specific circumstances. We need to ensure that the client's position is fully protected both in the short term and in the months and years following the signing of the Minute of Agreement. The drafting of a Minute of Agreement is, accordingly, a considered item of work. Ultimately, the process avoids the significant cost implications of court action – which is the only remedy where parties cannot reach agreement.



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