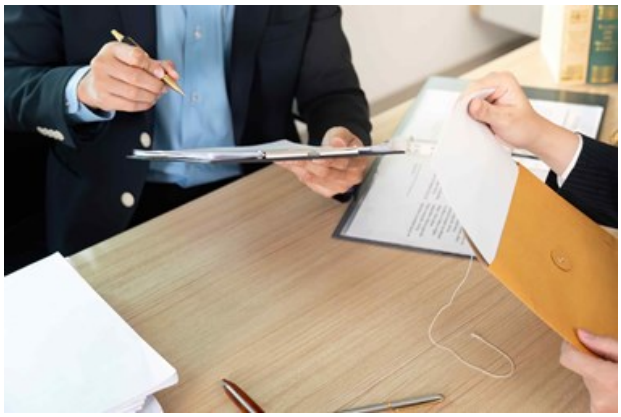


What is a barrister, and do I need one in my family law matter?

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If you're going through a separation, parenting dispute or property settlement, you may have heard people talk about hiring a barrister. But what exactly does a barrister do, and do you actually need one?

The short answer is not always. Understanding the difference between a lawyer and a barrister can help you make informed decisions about your family law matter.

What is a barrister?

A barrister is a lawyer who specialises in representing people in court and providing expert legal advice on complex legal issues. A barrister has specialist skills in dispute resolution, litigation strategy and advocacy, including preparing legal arguments, cross examining witnesses and presenting your case before a Judge.

Unlike lawyers, barristers usually do not deal directly with clients on a day-to-day basis. Rather, they are usually briefed to appear in court or other alternative dispute resolution events, such as mediation.

In summary, the difference between a barrister and lawyer is as follows:

- A lawyer manages your case, gives you legal advice, prepares court and other documents, examines evidentiary material (such as discoverable documents and expert reports), negotiates with the other party and guides you through the legal process.
- A barrister is the specialist advocate who steps in when expert courtroom representation or legal opinion is needed.

Do I need a barrister for my family law matter?

Many family law matters are resolved without ever needing a barrister.

If you and your former partner can reach an agreement through negotiation, with or without legal assistance, your lawyer will generally manage the entire process without involving a barrister.

However, there are situations where engaging a barrister can be beneficial. For example, you may need a barrister if:

1. Your matter is going to court. If your case proceeds to a Final Hearing or a contested Interim Hearing, we will usually brief a barrister to appear on your behalf to present your case, question witnesses and make legal submissions to the Judge.
2. Your case is legally complex. Some family law matters involve difficult legal issues, significant assets, family trusts, complex business structures or complicated parenting concerns. A barrister can provide specialist legal advice on these issues in consultation with your lawyer.
3. There are serious allegations. Cases involving family violence, child abuse, substance abuse or other serious allegations often require careful strategic preparation and experienced advocacy.
4. You want specialist representation. Some people simply feel more confident knowing an experienced advocate will represent them in court, particularly if the hearing is likely to be lengthy or highly contested or the other party has briefed a barrister.

Can I hire a barrister directly?

Generally, barristers will not accept direct briefs, and their work is received through lawyers.

Is hiring a barrister expensive?

Barristers usually charge a daily fee, which can vary significantly depending on the seniority and experience of the barrister.

Whether the cost is worthwhile depends on the circumstances of your matter. If your matter is straightforward and likely to settle, you may not need one and your lawyer may appear on your behalf at any court or other events.

If your case is particularly complex, the expertise of a barrister may ultimately save time, reduce risk and improve the prospects of settling your matter early.

Your lawyer can discuss whether the likely benefits outweigh the cost.

How your lawyer and barrister work together

If we engage a barrister in your matter, your lawyer will still remain your point of contact. Your lawyer will:

- Manage your matter and communicate with you;

- Prepare evidence and court and other documents;
- Ensure your barrister is briefed with all court and other relevant documents;
- Liaise with your barrister in relation to the overall strategy of your case; and
- Continue to manage your matter after any court hearings.

The bottom line

Not every family law matter requires a barrister. Many disputes can be resolved successfully with the assistance of an experienced family lawyer acting on your behalf. However, if your case becomes more complex or proceeds to court, a barrister can provide valuable specialist advocacy and legal expertise.

The best approach is to discuss your circumstances with your lawyer. They can advise whether engaging a barrister is necessary and help you make a decision that is both practical and cost-effective.

Every family law matter is different. Getting the right legal advice early can help you understand your options and move forward with confidence. Should you wish to discuss your unique circumstances, please do not hesitate to contact one of our experienced family lawyers.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.