ROBIN **COLESMITH**

FAMILY LAW ARBITRATOR

Your preliminary conference

The first step once you have both agreed to arbitrate. It is short, and it settles how the arbitration will run.

Before the conference, each of you must give the other a Financial Statement setting out your circumstances, together with the documents the court rules require. This is not optional, and the conference is far less useful without it.

IT DOES TWO THINGS

It settles the terms of your arbitration agreement

The date, time and place of the hearing, the issues to be decided, how long it will take, how the evidence will be exchanged, and what it is likely to cost. These are the things the Regulations require the agreement to record.

It sets the timetable to the hearing

Directions about disclosure, valuations, affidavits and expert evidence, with dates for each. From this point the matter runs to a schedule the parties have agreed.

WHAT TO EXPECT ON THE DAY

- **It is usually short.** An hour or so is typical, and most are held online.
- **You may attend with your lawyer, or on your own.** Either is fine.
- **Nothing is decided about your dispute.** The arbitrator does not hear evidence or form views about the outcome at this stage.
- **Everything said is on the record.** There is no separate or private conversation with the arbitrator, before, during or after.

COME PREPARED TO TALK ABOUT

- What is actually in dispute, and what is agreed
- What evidence each of you intends to rely on
- Whether any valuations or expert reports are needed, and who will obtain them
- How long the hearing is likely to take
- Whether it should be decided on the documents, on documents with argument, or with oral evidence
- Dates that suit you, your lawyers and any witnesses

> A worksheet on the website takes you through these points. The arbitrator may ask for it to be completed and provided before the conference, in which case it goes to the arbitrator and to the other party at the same time.

WHY THE AGREEMENT IS NOT SIGNED DURING THE CONFERENCE

An arbitration agreement has to set out the hearing details before anyone signs it, and those details are decided at the conference. It also has to contain a statement, for each of you, that you were given legal advice on the agreement, and that statement must be signed by the lawyer who gave the advice.

1. The conference settles the terms.
2. A completed draft is sent to each of you.
3. You each get legal advice on it, separately.
4. Your lawyers sign the advice statement.
5. You each sign, and the arbitration can begin.

Where both parties are represented this can all happen the same day. You do not need a lawyer for the whole arbitration (you can act for yourself and just get advice on the agreement), but the arbitration cannot proceed until that advice has been given and the statement signed.