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WOMEN
helping women through the law

Legal Services Payment Orders

This guide looks at funding legal costs for advice, mediation and representation in court when legal aid is not available.



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This option is available in the following sorts of cases:

- Divorce
- Nullity
- Judicial separation
- Dissolution of civil partnerships
- Financial orders

Note about language: The law for legal services payment orders is the same for married couples and civil partners. To make the guide easier to read we refer to “the other party to the marriage” and “divorce” throughout, to mean both types of relationships.

You may also find it helpful to read some of our other guides, for example [A guide to divorce](#) and [A guide to applying for a financial order](#)

When dealing with financial issues it might be helpful to first get some financial advice. See the **Useful contacts** section at the end of this document. The options available to pay legal costs can be limited when legal aid is not available. You can think about some of the following:

- Check if legal aid is available. See [A guide to family law legal aid](#) and speak to a legal aid solicitor to find out if you are eligible. See **Useful contacts** at the end of this guide for details of how to find a legal aid solicitor.

- See our guide [Family Court proceedings: where can I get advice and support?](#)
- Using a free legal advice service such as a law centre. See **Useful contacts** at the end of this guide.
- It may be possible for you to borrow money, raise money against a property, or sell assets. Always seek financial advice before taking any of these steps. See **Useful contacts** at the end of this guide.
- Using a McKenzie friend to support you in court. See our guide [McKenzie Friends – support at court without a lawyer](#)
- It is always an option to represent yourself, if you wish to do this. This may be your only option when legal aid is not available, and the order described in this guide is not available. See the **Useful contacts** section at the end of this guide for organisations that may be able to provide support.

This guide explains one of the ways in which you may be able to get legal advice and representation, but it will only apply to cases where the other party to the marriage can afford to pay legal fees for you as well as for themselves. The option set out in this guide involves asking the court to order the other party to the marriage to pay a sum of money to you to pay for your legal costs. This is called a **legal services payment order** and is made possible under the Matrimonial

Causes Act 1973 for relationships where you are or were married. For civil partnerships, this is made possible under the Civil Partnership Act 2004.

What is a legal services payment order?

A legal services payment order (LSPO) is an order which orders one party to the marriage to make payments to the other party to the marriage so that they can obtain legal advice and representation. As soon as the divorce application has been issued, either by you or by the other party to the marriage, the court can make a LSPO.

The legal costs you receive from the other party to the marriage under a LSPO can be taken into account at the end of the case if a financial order is made. This means you may have to pay back to the other party to the marriage some or all of your costs they paid out of what the court awards to you in a financial settlement.

What sort of payments can be ordered?

A LSPO can be:

- A large one-off payment
- Payments by instalments – this means the court will order that certain payments should be made at particular times the court will set out
- Payments for a specified period of time – this means the court will order ongoing, usually monthly payments until a date in the future
- Deferred payments – this means the court will say the payment is due at some point in the future when a

certain thing has happened or at a certain time

A LSPO is designed to provide for legal costs for the future. For example, so you can be represented in an upcoming financial dispute resolution appointment. A LSPO is not designed to help you pay legal costs from the past, unless not paying these means your solicitor will not continue to represent you.

When the court is first asked to make a LSPO, it will usually limit the order up to a certain point in the case. For example, it will usually order your legal costs to be paid up to and including the financial dispute resolution appointment (FDR). If the case does not finish with an agreed order at the FDR the court will then think about whether to continue the LSPO to cover the next stages in the case. If an agreement about the LSPO continuing cannot be agreed, the court will usually arrange another court hearing after the FDR to consider whether the LSPO should be continued to the final hearing.

What legal services you want the order to cover

A LSPO can be ordered to cover the legal costs of any of the following:

- Advice as to how the law applies to your case
- Advice and representation in relation to your court proceedings
- Advice and assistance on whether you should try alternative methods of settling the case, for example, through mediation

- Advice and assistance on enforcing any orders made in the case

The court should say when giving judgment which of the legal services the order is to cover. It could include a payment for legal services for mediation before an application for a financial order is made, as long as the divorce application has been issued by the court.

How will the court decide whether to make an order?

The court will look at many things in deciding whether or not to make a LSPO.

The law says that the court:

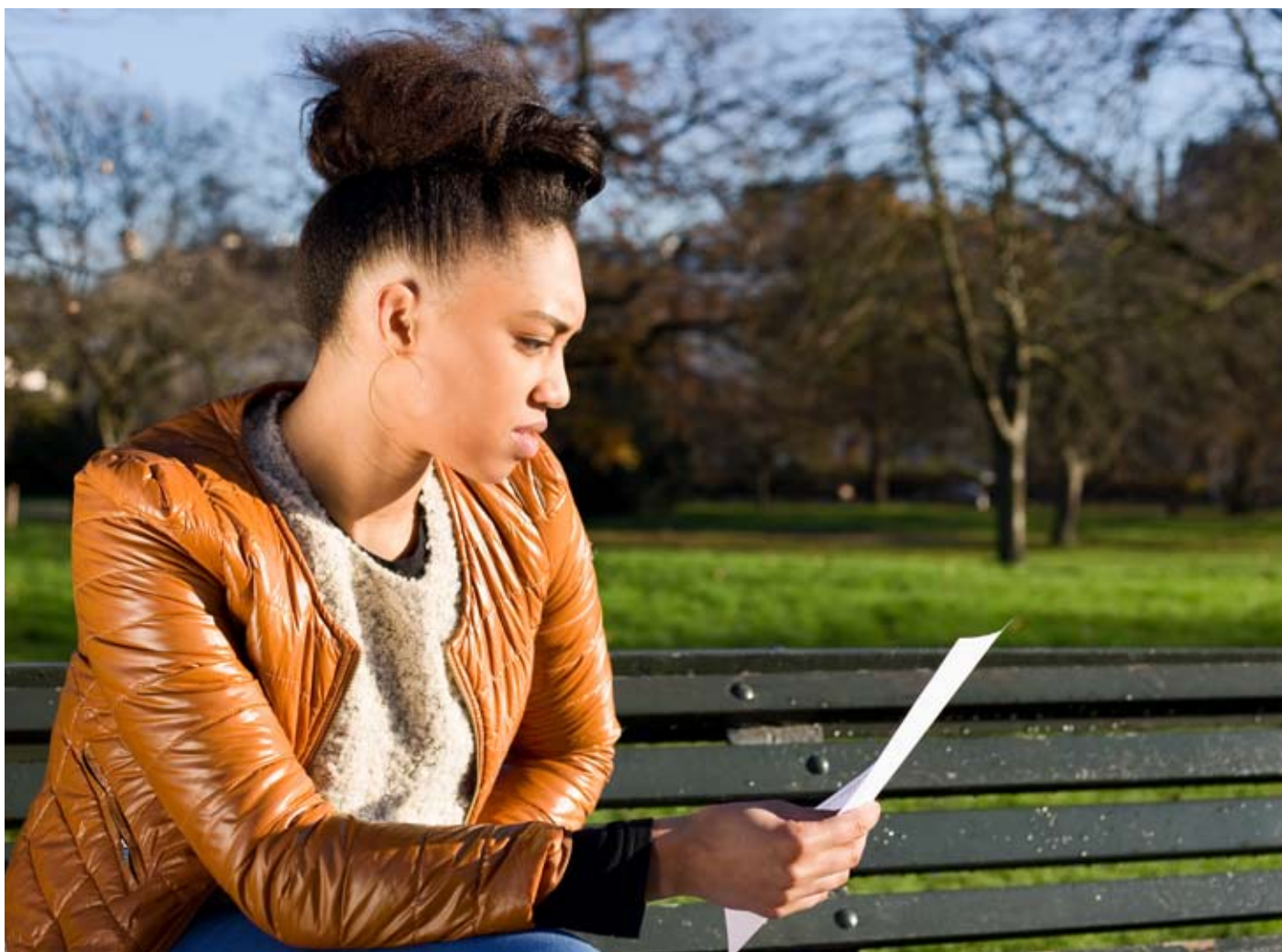
- must not make a LSPO unless it is satisfied that you would not be able

to obtain legal services without an order being made. This includes the court being satisfied:

- that you cannot secure a loan to pay for the legal services
- that you cannot raise money against property to pay for the legal services

The law also says that in deciding whether to make a LSPO or vary a LSPO the court must take into account:

- for you and the other party to the marriage - any income, how much you could earn, your property and other financial resources you have now or which you and / or the other party to the marriage could have in the near future



- for you and the other party to the marriage – your expenses and responsibilities which you have now or which you and / or the other party to the marriage could have in the near future
- what the case or legal issue about which you need advice is about
- whether the other party to the marriage has a lawyer themselves
- anything you have done to try and avoid the legal issue being heard in court, including suggesting mediation
- how you have behaved during the case, for example have you obeyed all court orders
- whether you owe any money to the other party to the marriage for costs of this case or any other case
- what effect making the LSPO would have on the other party to the marriage, including:
 - whether making a LSPO against the other party to the marriage would cause them financial difficulties
 - whether making a LSPO against the other party to the marriage would stop them from affording legal services for themselves

The court will also take into account how likely it is that you will be successful, or how reasonable your case is, when deciding whether or not to make a LSPO.

If the court makes a LSPO and then your circumstances change a lot you need to let the court know. If the circumstances of the other party change after the LSPO is made then they should also let the court know. The order may need to be

changed or ended, depending on the new circumstances.

Undertakings

An **undertaking** is a promise to the court. Breach of an undertaking is contempt of court and can be punished with a fine, a requirement to do unpaid work or imprisonment. You should make sure you can keep to the promises you are making by giving the undertaking before you give the undertaking.

As part of deciding whether to make a LSPO the court will normally ask you to give an undertaking. This undertaking will usually be that if the court at the end of the case, thinks it is appropriate, you will re-pay any money the other party to the marriage has paid under the LSPO. If you are not willing to give this undertaking, the court is unlikely to make the LSPO.

When can I apply?

The application for a LSPO can be made at any stage after you or the other party to the marriage has applied for divorce. You can apply for a LSPO whether you are the applicant or respondent in the divorce or financial order application, if there is one.

Attendance at a Mediation Information and Assessment Meeting (MIAM) is normally required before making the application, but victims of abuse are not required to attend a MIAM. You will have to provide evidence of domestic abuse to be exempt from attending a MIAM. See our guide to **Alternatives to the family court** which explains mediation.

How to apply

There is specific information you need to provide when applying for a LSPO. You will need to get some of this information from a solicitor. It is sensible to speak to some solicitors before making your application and find one who you want to take on your case if you are granted the order. The solicitor will have to provide you with some of the information you need to make the application.

See **Useful contacts** at the end of this document for details of how to find a solicitor.

The procedure to apply for a legal services payments order is called a **Part 18 application** because it falls under Part 18 of the Family Procedure Rules. The application form to use is Form D11 which you can find here: www.gov.uk/government/publications/form-d11-application-notice

To apply you need to:

- Download or print out Form D11 (see above for the link to the form).
- Complete all the sections of the D11 form that apply. You must state in the form what order you are seeking and your brief reasons why you are asking for the order. You can also write "See attached witness statement" as you will also need to complete a witness statement to set out your reasons for applying for the LSPO.
- Write your witness statement. See the section below on witness statements.
- Sign and date the D11 form and your witness statement.
- Attach any documents you are relying

on in support of your application, and make sure you refer in your application to any documents the court already has. This could include your Form E, if you have already sent this into the court.

- You will need to include a draft of the order you are asking the court to make. The solicitor you want to represent you may be able to help you with this.
- Send in three copies of each of the documents with the court fee. Information about court fees can be found here: **Civil and Family Court Fees**

If you are on benefits or on a low income you may not have to pay the fee or may be able to claim a reduction in the fee.

This is called applying for **Help with Fees** or a **fee remission**. You can apply for help with fees using Form EX160 which you can find here: www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees

You will need to give at least 14 days notice of this application to your ex-partner. If you need the court to deal with it more quickly than 14 days, you must explain in your application the reasons why and why it is fair for the court to hear it more quickly than after 14 days. Good examples would be, there is a hearing which is happening very soon, or because you have learned that the other party is about to sell some property which you believe you are entitled to, or because there are some directions to comply with soon.

What should you include in your witness statement?

You need to write a witness statement to send to the court with your application. You can find out about writing witness statements in our guide [A guide to preparing witness statements for the Family Court](#).

Your witness statement needs to include:

a) You are not able to obtain any legal services without a LSPO being made

Explain:

- That without the LSPO you will not be represented in your case.
- That you have not been able to take out a loan to pay for legal services.

You will need to get at least two letters from banks or lenders confirming that they will not lend you the money. If you have been offered a loan but it would be unreasonable for you to accept it, for example because the interest rate is very high, you will need to explain this. You should always get financial advice if you are thinking about taking out a loan. See **Useful contacts** for where you might find free financial advice.

- That you are unable to fund legal advice using any property you have or think you will be awarded from your ex-partner.

A court will not normally require you to sell your home or other property or use a small amount of savings to pay for legal costs. However in some cases it is obvious that a property will

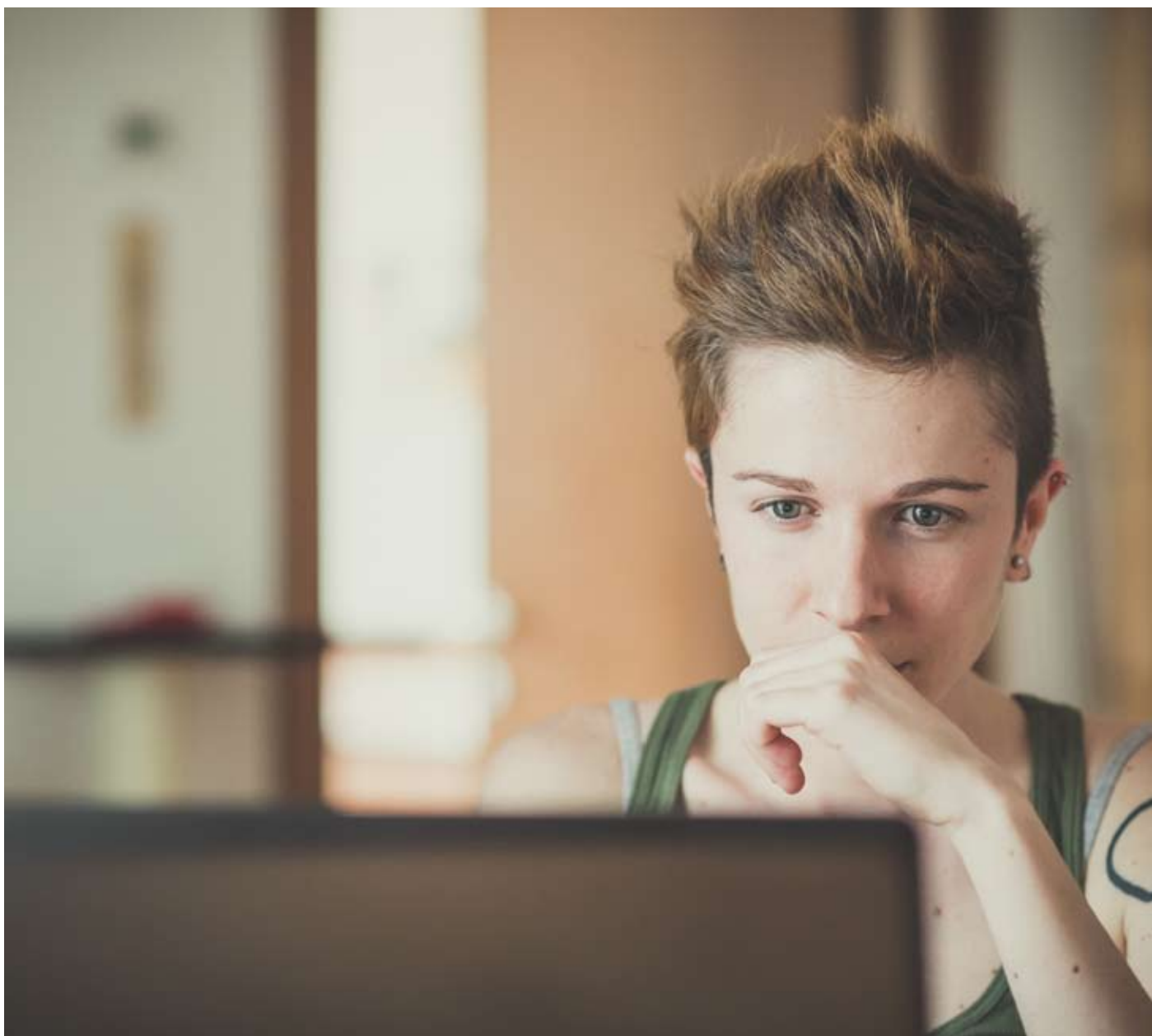
be sold at the end of the case. If this is so for you the court may say that you must ask a solicitor to agree that their fees will be paid out of your share of the property, rather than making a LSPO. The solicitor you want to represent you will be able to check whether this could happen before you make the application for a LSPO.

- That the solicitor you want to represent will not agree to advise you in any other way than through a LSPO. You will need a letter from the solicitor to confirm this.

b) Financial circumstances

Explain:

- Details of your income, the money you could earn, any property you have and your financial resources. You need to include both the financial resources you have now, and any you may have in the near future. For example, if you are about to start a new job which will mean you earn more money, you need to include this information. Or if you are due to inherit some money soon, you need to include this information.
- Details, as far as they are known to you, of the other party to the marriage's income, the money they could earn, any property they have and their financial resources. You need to include both the financial resources they have now and any they may have in the near future.
- Details of your financial needs, obligations and responsibilities including responsibility for maintaining any children, any debts



etc, both now and any you are likely to have in the near future.

- Details of the other party to the marriage's financial needs, obligations and responsibilities as far as they are known to you.

If you have already sent your Form E to the court, you should refer to your Form E and the Form E of the other party to the marriage in your witness statement. If you need to provide any updating information, for example if you have started a new job, or are about to, or have lost a job, set this out in your witness statement. If the

information the other party to the marriage has provided in their Form E is very different to what you expected it to be, for example, the income they have set out on their Form E is much lower than they were receiving when you were in a relationship, set this out in your witness statement, with supporting documentation, if available.

c) The case so far

Explain:

- What the case is about, for example, the court will decide how the property and assets owned by you and the

other party to the marriage should be divided up.

- What steps you have taken to try and resolve your case with the other party to the marriage, for example mediation, or suggesting mediation. If mediation is not appropriate, because of abusive behaviour by the other party to the marriage, explain this. If you have sent any offers to their solicitors or tried to resolve the case through letters you can explain this to the court. Do not include any details of the offers you have made in without prejudice letters. You will know if an offer is without prejudice because it will say **without prejudice** at the beginning of the letter.
- Whether the other party to the marriage is legally represented, and if so, by whom, and how much they have spent on legal costs. The information about the legal costs they have spent so far should be provided by the other party to the marriage at each court hearing.
- Your conduct in the proceedings - for example, have you obeyed all orders regarding completing forms, providing information, have you tried to settle the case via mediation or by making offers? Note – do not set out the detail of any offers if they were made on a without prejudice basis. You will know if they are made on this basis because it will say **without prejudice** on the letters.
- If you owe the other party to the marriage any money due to costs orders made in this case or any other case in which you were both a party.

A **costs order** is an order made by the court for one party to pay the other party's legal costs.

d) Legal costs

You will need a detailed estimate of the amount of money you have spent so far on your solicitor and the amount you are likely to spend in future. You can ask the solicitor you want to represent you to assist you with this.

e) Fairness

What the effect of an order for the other party to the marriage to pay a LSPO would be on them, including on whether they could afford to pay their own legal fees. For example, if they have a large income or owns assets which are valuable, or if they have recently lost their job, but has a large redundancy payment. The court will be looking to see if making an order against them would cause them undue hardship or stop them from paying for their own legal advice and representation.

If the other party to the marriage is very wealthy, it is likely they will be able to afford to pay legal fees for both you and themselves. However, if a LSPO to pay all of your legal costs would leave the other party to the marriage unable to pay their own, it is unlikely the court will make this order or may decide that the LSPO to pay your legal costs should be limited so that they can also pay their own legal costs.

f) Order

What you want the court to order, for example your legal costs for the financial order application up until the FDR appointment.

After you have sent your application to the court

The court will issue your application. This just means processing it and setting the date for a hearing. The court will either:

- send you and the other party to the marriage your application, witness statement and draft order together with a date for a hearing, or
- will return two copies of everything and a date for a hearing to you – one for you, and one copy for the other party to the marriage, and direct you to serve it on the other party to the marriage yourself. This means you must send it to the other party so they get it at least 14 days before the date of the hearing.

The court will decide whether to make a LSPO at a hearing based on the information you have provided and the reasons set out in this guide. You can ask the solicitor helping you for guidance before the hearing if you are going by yourself. You can ask your solicitor if they will represent you at the hearing.

If the LSPO is granted to cover your legal services to a particular point in the case, for example to the FDR, and the case continues after that point, you can ask the court to extend the LSPO further. By that point, your solicitor should give you advice

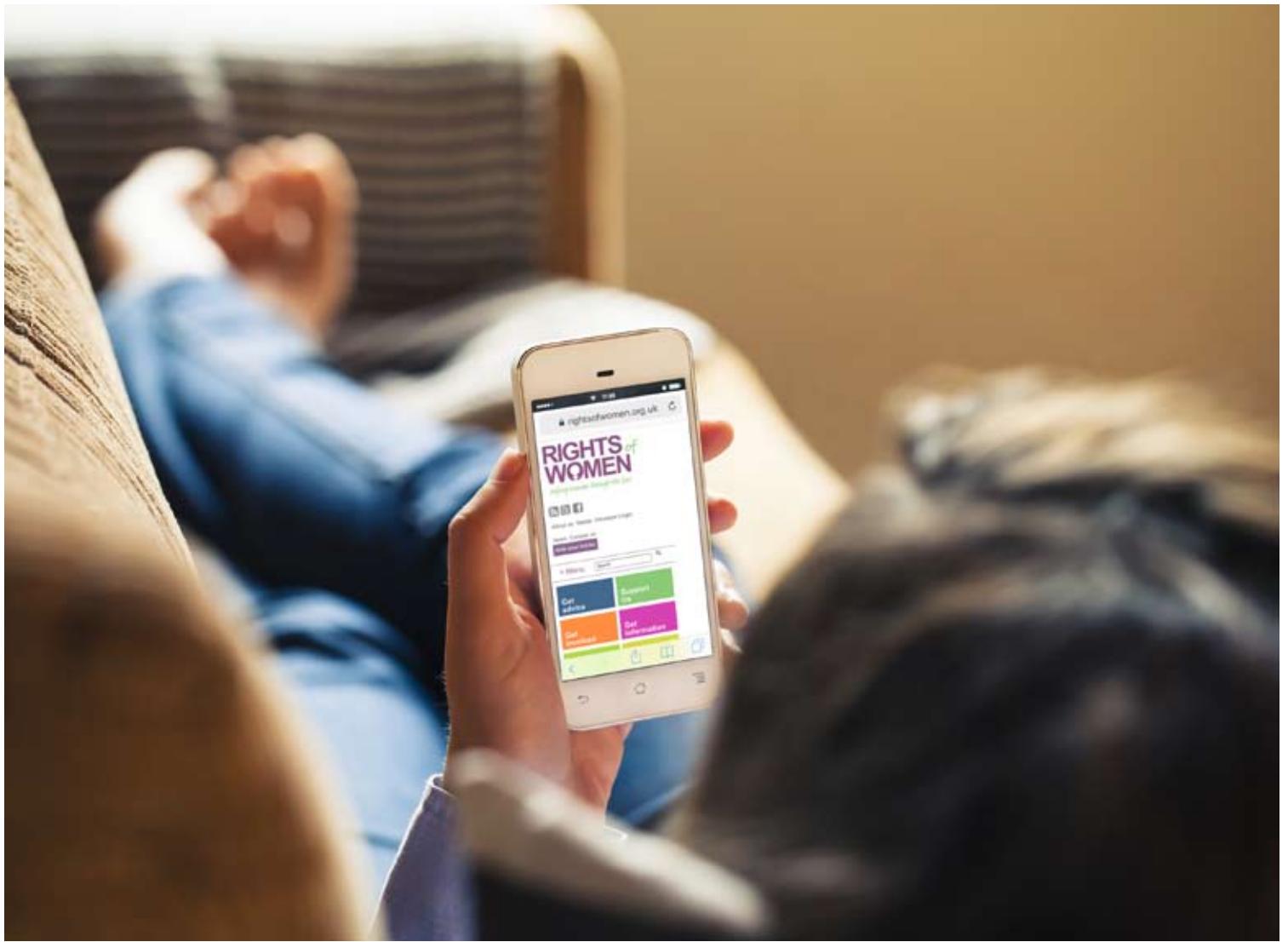
on whether it is likely the court will extend the LSPO and support you to apply to do so. There may need to be a hearing solely to decide whether the LSPO is extended.

At the end of the case

At the end of the case the court may then consider whether you have to pay any or all of the money you received under the LSPO back to the other party to the marriage.

For example, if at the end of the case the court makes a financial order that includes the other party to the marriage transferring money to you, they may also decide that you should re-pay them the amount paid in legal costs under the LSPO. You should think of the money paid under the LSPO as being money you may have to pay back at the end of the case, depending on the outcome.

Throughout the case, your solicitor should keep you regularly updated on how much your legal costs are at that point. Your solicitor should also advise you on the impact your legal costs may have on any offers to agree a financial order from the other party to the marriage or that you are putting forward.



The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

Rights of Women's family law advice lines

We have two family law advice lines, one national and one for women in London:

Women living or working in London: call **020 7608 1137**

For all women: call **020 7251 6577**

For a full list of Rights of Women's legal guides and information about our advice lines go to **www.rightsofwomen.org.uk**

Useful contacts

Emergency Contacts

Police (emergency)

999

24 hour domestic violence helpline

0808 200 0247

www.nationaldomesticviolencehelpline.org.uk

National LGBT Domestic Abuse Helpline

0300 999 5428 or 0800 999 5428

Find a Lawyer

The Law Society

(to find a solicitor)

0207 320 5650

www.lawsociety.org.uk/find-a-solicitor

Resolution

(to find a family law specialist lawyer)

020 3841 0300

www.resolution.org.uk

Public Access Portal

www.directaccessportal.co.uk

Other contacts

Legal advice and support

Citizens Advice

www.citizensadvice.org.uk

Law Centres Network

020 3637 1330

www.lawcentres.org.uk

LawWorks Clinic Network

www.lawworks.org.uk

Advocate

(previously the Bar Pro Bono Unit)

020 7092 3960 (voicemail only service)

www.weareadvocate.org.uk

Support Through Court

(previously the Personal Support Unit)

0300 081 0006

www.supportthroughcourt.org

Disability Law Service

020 7791 9800

www.dls.org.uk

Surviving Economic Abuse

www.survivingeconomicabuse.org

Domestic & Economic Abuse Partnership

www.moneyadviceplus.org.uk/advice-and-support/domestic-abuse-money-education-project

Money Advice Service

www.moneyadviceplus.org.uk

Money Saving Expert

www.moneysavingexpert.com

Pensions Advisory Service

www.pensionsadvisoryservice.org.uk

Advice Now

www.advicenow.org.uk/finances-after-divorce

Step Change

www.stepchange.org

Court forms and locations

www.justice.gov.uk/about/hmcts

Her Majesty's Court & Tribunals Service

www.gov.uk/government/organisations/hm-court-service

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