

Mediation



Overview

Mediation is the process by which you meet together with a trained independent third party called a mediator. The role of the mediator is to help you co-operate, resolve conflicts and reach joint decisions and agreements regarding your finances, property and or children. Mediation is not reconciliation or counselling.

It is important to receive legal advice alongside the mediation process to ensure that you are well informed about your legal position. The mediator is impartial and therefore cannot give you independent advice.

Will the agreements you reach be legally binding?

Any agreement made through family mediation is not legally binding. It is however advisable to have your agreement formalised in a legal document or court order to ensure that it is binding and can be enforced.

Do we have to go to mediation?

Before you can apply to the court for an order (whether in relation to your finances or children) the court will expect you to have attended a Mediation Information and Assessment Meeting. If you have not attended one of these meetings before issuing the court may insist that you to do so before it will proceed with your case.

Attendance at mediation is not required if:

- › You are applying to enforce an existing order
- › Where emergency proceedings have been brought in respect of a child and have not been determined
- › There has been domestic abuse allegations leading to police investigations or issue of civil proceedings within the last 12 months
- › There are financial issues and one of you is bankrupt
- › You are in agreement that there is no dispute to mediate
- › The other party's whereabouts are unknown
- › The application is for an order in relevant proceedings which already exist and are continuing
- › The application is made without notice
- › The application is urgent – defined as being a risk to the physical safety of the applicant or a family member or a home or that the delay caused by attending the assessment meeting will cause a risk of significant harm to a child, unreasonable hardship to the applicant or irretrievable problems in dealing with the dispute such as loss of significant evidence

- › There is current Social Services involvement because of child protection issues where the child is the subject of the application, or where the child would be a party to the application.
- › Three mediators contacted within a 15 mile radius of your home are unable to conduct the mediation within 15 working days
- › The applicant has not complied with the Protocol set out in the Family Proceedings Rules 2010
- › The mediator considers your case is not suitable because another party to the dispute is unwilling to attend the assessment
- › The mediator considers your case is unsuitable for mediation or
- › Within the last four months a mediator has determined that your case is not suitable either for an assessment meeting or for mediation.

“Mediation offers separating and divorcing couples the opportunity to resolve matters regarding the future by negotiating.”



What happens after the Mediation Information and Assessment Meeting?

If you and the mediator feel that mediation can help you reach an agreement, you can start mediation sessions. If you are not going to start mediation sessions, the mediator will fill in a form FM1 and send it to you or your solicitor. This form needs to be filed with the court with your application for an order.

How much does mediation cost?

The mediator will assess your eligibility to get help towards the cost of mediation at the first session. This will depend on whether you are entitled to legal aid. You can check if you qualify by calling the Community Legal Advice helpline on 0845 345 4 345 (open Monday to Friday 9.00 am to 8.00 pm and Saturday 9.00 am to 12.30 pm)

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or use the legal aid eligibility calculator online at <http://legalaidcalculator.justice.gov.uk>

If you do not qualify for free mediation, you will have to pay for each mediation session. Charges per session vary according to individual mediation services.

How do I find a mediator?

You can get details of family mediators near you from the Family Mediation Database by using the link below. When you are looking for a mediator you should check that they are recognised by the Family Mediation Council.

www.familymediationhelpline.co.uk/find-service.php



Contact us

Please feel free to discuss your own position and concerns. Contact your nearest Russell Jones & Walker office or call:

Call: 0800 916 9055

Email: enquiries@familylaw4police.co.uk

Web: www.familylaw4police.co.uk

Our offices:

Birmingham, Bristol, Cardiff, Edinburgh (Associated Office), London, Manchester, Milton Keynes, Newcastle, Sheffield, Wakefield

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