

# Mediation and all that...

Divorce is a difficult process but there is an alternative way to settle disputes



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**T**he Government initiative to persuade all separating couples from April this year to consider mediation before taking their disputes to court has meant mediation has been in the news... or at least pushed up the agenda. In reality, mediation has been available to separating couples since the 1980s but until this latest initiative it has hardly been the first port of call for such couples needing to resolve questions like: where are the children going to live, is there enough money to go round and what will I live on when I retire?

**So what is mediation?**

**How can it help you?**

**Where can you find out about it?**

**How do you start?**

**How do you get the best out of the process?**

Mediation is a way to help you discuss, face to face, the problems you have to resolve when separating, whether relating to children or finances, with the intervention of an intermediary – a neutral mediator. The mediator does not give legal advice; you will still need to obtain that from your lawyer.

Your family lawyer is also required to translate your proposals agreed in mediation into a legally binding agreement or order for court approval.

Mediation can help if you would both prefer to find solutions together rather than placing your family and finances in the hands of the court. The emphasis is on working together. The advantages of mediation are that:

- You both arrange your own timetable with the mediator

- It's a speedier, more immediate and cheaper process than going to court
- You both have the chance to say what you want to say and also be heard in a safe environment
- You own your own solutions, they are not imposed upon you
- You have a much greater chance of reaching an agreement that you can both live with and which will last
- You set the scene for the future, to work together as parents, as you will always be connected by your children, like it or not.

Mediation is unlikely to be appropriate for you, or your children, if you have had serious problems with physical violence or emotional abuse during your marriage or relationship, or if you suspect your former spouse/partner is likely to 'hide the ball'. Conflict is not, of itself, a reason not to try mediation however; as this goes with the territory of splitting up.

One place to find out about mediation is [familymediationhelpline.co.uk](http://familymediationhelpline.co.uk), the Government website, which will provide more information and also details of mediators based in your area.

If you are considering going to court then you are required first to go to a Mediation Information and Assessment meeting with a mediator (with or without your spouse/partner) to explore whether mediation would be suitable for your situation. Please consult the Government website above for those mediators who are approved to carry out such assessment meetings.

Helpful tips on how to get the best out of the process:

- Participate in good faith
- Be prepared to see things from your spouse's/partner's perspective
- Determine to use the process to resolve issues with goodwill
- Accept the negatives, whilst searching for the positives
- Be tough on the problem, not your partner
- Cultivate an ability to consider the needs/interests of others
- Adopt an interest-based approach to negotiations
- Look for a win – win scenario

Helpful reading is, *Getting to Yes* by Roger Fisher and William Ury and *Difficult Conversations* by Douglas Stone, Bruce Patton and Sheila Heen.

You might feel that going into mediation is a daunting process, without any support immediately on hand, but this need not be the case. Nowadays some mediators adopt the lawyer supported mediation approach. This is where your family lawyers can be present in the mediation to give both of you advice and help.

Furthermore, some family mediators can offer, where appropriate, just one session of mediation which comprises one long meeting. This alternative approach fits where you disclose your financial circumstances to each other, before the mediation, and you agree what you have by way of income or assets. The mediator is sent the relevant paperwork to read through beforehand and both parties attend this one session with lawyers. In these circumstances it is quite possible for a settlement be reached there and then to reach a conclusion.

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