



**Family &
Matrimonial**

FAQ **Mediation**





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FAMILY LAW FAQ: MEDIATION

What is our general approach to finding a solution?

Our family law specialists are committed to assisting couples who want to resolve their dispute in a non-confrontational way. They encourage couples to embrace a more productive and far less upsetting path such as mediation in the quest to reach an amicable solution once they have agreed to separate.

What is mediation?

Mediation is a way of sorting out the issues that arise when couples separate. This includes the 'big issues' concerning the children and financial matters. The mediator is like a referee. He or she is trained to help couples identify and resolve any issues, keeping the discussions constructive and civilised. Unlike a referee, the mediator does not judge between the couple, or make any decisions. These things are left completely to the people themselves, so they retain control at all times.

While mediators can give legal information (including what the powers of the courts are to make certain orders), they cannot give advice – that is the realm of the solicitor.

How does mediation work?

Family mediation takes place over a series of sessions, each usually lasting about 60-90 minutes.

Before mediation starts, the mediator will meet each party separately to make sure they are both happy and safe to meet together and mediate.

In the first mediation session, the agenda is established and issues agreed. The mediator will then help the couple to gather together information and discuss those issues.

There may be four or five sessions over one, two or three months. It all depends on how many issues there are and how hard they are to sort out.

The discussions are always private and cannot be referred to later in court. This means that both people are free to be entirely open without worrying that they might commit themselves to something. The couple is able to try out ideas to see whether they might form the basis of an agreement.

Once the issues have been agreed, the mediator will set them out in writing, in a Memorandum of Understanding, which can be shared with a family lawyer to receive advice, and possibly have the legal paperwork drawn up.

In many cases, this will be in a court order which will then be sent to the court – so the court can take what is agreed and turn it into a binding order.

What are the main benefits of mediation?

Mediation is without question the most cost-effective way of sorting out what happens when couples decide to go their own way. Because both sides are involved in the discussions directly, and end up with an agreement, they know the arrangement can work. Best of all, mediation puts the individuals in control, which is not likely to be the case if the courts are involved.

Do I still need a solicitor or lawyer to give advice?

Whether or not you need legal advice depends on the issues at hand. In most cases, it is helpful to have independent legal advice – for each person.

A lawyer will be able to advise on:

- What do you need to think about when you go into mediation
- Whether the financial proposals will work in practice
- What financial information you need
- Whether you have thought of all the necessary component parts of your divorce settlement
- Whether the practical arrangements are going to work for everyone
- Whether a court might see things differently
- Whether or not it is fair.

Is mediation always the best route?

It's important to acknowledge that mediation is not for everyone. For a start, you have to be confident that your spouse or partner will be open and honest, especially in producing financial information. Some people are simply not reasonable in their demands and it may be a problem trying to get them to agree things. You also have to feel and be safe in the mediation process, so it is rarely appropriate if there is any domestic violence, abuse or too much of a power imbalance in the relationship generally.

What is a MIAM?

Mediation has become a pre-requisite to making an application to the court. The government is trying to reduce the number of cases that go to court and is trying to encourage people to reach a negotiated solution wherever possible.

So unless the case is very urgent or one of the very few exemptions can be claimed, before anyone can make an application to court for disputes relating to children or finance, they are first required to attend a Mediation Information and Assessment Meeting (MIAM).

At the MIAM, a mediator gives information about the process of mediation and assesses whether the situation is appropriate for mediation. If the case is suitable, the mediator will invite the other party to a similar meeting to give information and discuss the case with a view to setting up a mediation appointment.

Does Pearson Hards offer mediation?

Ian Lipscombe is a mediator trained by Resolution. He is also qualified to conduct MIAMs. For further information about the services Ian can provide, please call him on 020 8949 9500.

Useful Links

www.resolution.org.uk
www.relate.org.uk
www.lawsociety.org.uk
www.gov.uk/divorce

**For more information, contact
Ian Lipscombe or Emma Rothstein
on 020 8949 9500.**



Both are members of Resolution, which means they are committed to dealing with family disputes in a constructive and non-confrontational way.

We offer an initial free 20-minute consultation or a fixed-fee appointment for 40 minutes.

www.pearsonhards.co.uk

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