

## **Preparing for family mediation**

Mediation is regularly used in family law to assist couples to reach an agreement about their financial separation and any arrangements for children, avoiding the need to go to court.

If you and your former partner have agreed to participate in mediation, what should you expect and how should you prepare to ensure that you achieve a satisfactory outcome?

Here are some common questions and some things to think about in advance:

### **Will I come face-to-face with my former partner?**

Mediators normally meet with you individually first, to get an idea of each person's objectives before organising a joint session if you both agree to this.

If you do not wish to be in the same room together then 'shuttle mediation' may be an option. This is when you remain in separate rooms and the mediator shuttles between you to try and facilitate discussions over difficult issues.

You may find that after one or two shuttle sessions you are more comfortable at the thought of sitting face-to-face with your former partner, and you can ask the mediator to arrange this if your former partner is also in agreement.

### **What to expect at your first session?**

Initially, you will attend a mediation information and assessment meeting (known as a MIAM) with your independent mediator who will outline how mediation works, payment arrangements, and what you should expect. You will attend this initial session alone and it usually lasts around 45 minutes.

The mediator will be a trained professional who will remain independent and impartial throughout the process. They will not make any decisions for you but will help facilitate discussions to see if you can reach an amicable resolution. You can

ask any questions about the process or raise any concerns you may have at the initial meeting.

### **What if I do not like the mediator?**

If you do not feel comfortable with the mediator, then you can make enquiries about a different person becoming involved, or alternatively contact us and we can discuss the appointment of a new mediator.

It is important that you feel comfortable when you attend the sessions, and it is normal that the same mediator stays with you throughout all your sessions.

### **Where will it take place?**

The mediation often occurs at the mediator's office, or at some other neutral venue, but most mediators also facilitate sessions via video call.

### **Understanding your legal position**

Before you commence mediation, you need to understand your legal entitlements with regard to financial provision and arrangements for your children.

Your solicitor will have advised you first. This means that you can attend the mediation session confident in your rights and knowing what is realistic to expect. We will also identify any potential problems to try and resolve and suggest questions you will need to raise.

### **Clarifying your objectives**

Try and enter each mediation session with a focus on what you wish to achieve. It is a good idea to prepare a set of bullet point notes beforehand to bring with you to mediation. This will jog your memory and also give you something on which to make a brief note of what you discussed and agreed during your mediation. If you are discussing financial issues, it is wise to bring copies of your recent financial statements should you need to refer to them.

You may know in advance which issues are likely to be hardest to resolve with your former partner. If so, try and be realistic and split these 'big' issues into one or two per session.

If you are entering mediation to sort arrangements for your children, try and think through each scenario when a contentious issue might arise. For example:

- where your children spend time at birthdays, Christmas or other festivals, Mother's and Father's Days and school holidays;
- where children will go to school and what will happen at plays and parents' evenings;
- do you need to discuss how and when any new partners may be introduced to your children?
- do contact arrangements with extended family members need to be agreed, such as with grandparents?
- what happens if an emergency arises? Who is to be the first point of contact? and
- how will paying for school trips, school uniforms and extra annual expenses, such as presents, be divided?

If you are attending mediation in relation to your financial separation, it is important to have a good idea of all the assets you have jointly and in your sole name. For example:

- property and mortgage details;
- savings and investments;
- business assets;
- pensions; and
- other valuable assets, such as cars.

It is important to be open and honest about this. Any attempt to hide assets may render an agreement void. You will also need to discuss your current income from salary or any other sources, such as benefits or investments.

You should make a note of any debts or other financial liabilities and list out what your usual monthly expenses are. If you jointly own property, it is best to have a

valuation of this before mediation, especially if one of you intends to stay on in the home and buy the other person out.

### **Review progress after each session**

You are likely to attend a number of sessions before your mediation concludes. Do not expect all your issues to be resolved at your first session together. It usually takes a number of sessions, so do not feel disheartened.

During and after each session, we recommend you make notes of the issues you discussed and agreed, as well as any matters that come into your head following the mediation that you forgot to mention at the time or that you feel need clarifying.

If you have any queries or questions in between mediation sessions, you can seek advice from your solicitor.

### **What if we cannot reach an agreement?**

If an agreement cannot be achieved, or the mediator feels that it is not beneficial to continue with the mediation, then you should contact your solicitor. At that stage it may be necessary to issue court proceedings.

While mediation helps many people, it is not always successful. Despite your best efforts, it may be that you reach a stalemate over a certain issue or issues. Do not feel that this has been time or money wasted. Even partial agreement on some problems at mediation can be a benefit as it will narrow the issues that you are putting forward to a judge to decide. This will save you time and money at any future court hearing.

### **What happens if agreement is reached?**

If you reach an agreement at mediation, the mediator will draft a memorandum of understanding for you both to sign which will outline the terms you have agreed. This document will not be legally binding. In order to make your agreement legally binding you should contact our solicitors and we can advise you further on obtaining a court order by consent to ensure the terms will be binding.

Our key contacts at DMP for further advice and assistance on financial or children mediation are Stephanie Alderwick and Tony Roe:

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