

FAMILY MEDIATION

Mediation is a process where disputes and issues arising from divorce or separation can be resolved amicably and constructively, avoiding the need for an often costly and prolonged court proceeding

WHAT IS FAMILY MEDIATION?

Family Mediation is a voluntary and confidential process whereby an independent, impartial, and professionally trained mediator helps couples work out arrangements for children, property and finances. Or any other issues that may arise following separation.

The role of the Mediator is to help couples reach an understanding and achieve a solution that both can accept. Sessions can also be used to discuss interim as well as longer-term arrangements.

Any agreement reached in Mediation and outlined in mediation documentation is not legally binding. Both parties will need to take the documentation to a solicitor to seek advice and formalise the agreement, e.g. draw up a consent order.

WHAT ARE THE BENEFITS OF FAMILY MEDIATION?

If both parties are willing to engage in the Mediation process, it can reduce delays, expense and the stress of protracted negotiations or court proceedings. In addition, it encourages communication between the parties in a constructive manner.

Mediation is flexible. Parties have a much greater degree of control to negotiate their own settlements. It is possible to reach a settlement in three to five sessions over a couple of months, depending upon the situation's complexity.

WHAT ARE THE DRAWBACKS OF FAMILY MEDIATION?

Mediators will remain neutral and do not give legal advice or information to either party. This is why separating couples using Mediation are always advised to obtain legal advice from a Family Lawyer to inform their discussions in the mediation sessions. This does increase the costs for the parties; sometimes, despite best efforts, parties cannot reach an agreement and will end up in court anyway.

Mediation is not suitable for everyone. It will not work where there is an imbalance of power between you or where there has been significant domestic abuse. Mediators are not obliged to

ensure that there has been full financial disclosure between the parties, and Mediation is not forensic in its approach. However, for most people, even where conflict levels are high, it can be a very effective process for sorting disagreements or narrowing the issues.

HOW DOES THE PROCESS WORK?

Meetings can be in person, although many Mediators now offer virtual Mediation if preferred, enabling you to conduct sessions via secure video conferencing. Either party is free to withdraw from, or stop, the process at any time, but this rarely happens

The process of Mediation follows several steps:

- **MIAM** (Mediation and Information Meeting). You will each have an initial meeting with your Mediator; this allows you to understand the process, ask questions and reflect on whether Mediation is right for you. The Mediator will also assess whether Mediation is suitable for you.
- If deemed suitable, and you have both agreed to continue with Mediation, you will begin the joint mediation sessions. Typically, this cost is shared equally. Each party has an opportunity to share their views and what they would like the outcome to be. This helps the Mediator narrow the issues.
- After each session, the Mediator will summarise the issue discussed and any tasks the parties need to complete before the next session. For example, if finances are an issue, the parties will usually need to collate financial information to aid future discussions.
- Once the parties have reached a general agreement, the mediation process concludes. A document presenting all the agreed proposals will be given to you.

These documents may include an Open Financial Summary (setting out the financial circumstances disclosed and considered during the Mediation process), a Memorandum of Understanding (summarising all the agreed proposals) or a Parenting Agreement (for arrangements relating to your children). These can be passed on to your solicitor for further advice. Once agreed can be formalised in a written agreement or court order (by consent).

This guide is intended to be general information and not to be relied upon as legal advice. This is a complex area, and each case is different. We would suggest you contact us to obtain complete and proper legal advice.