

FACT SHEET

How To Guide: Mediation

KEY CONTACT



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Step 1: Approach the Topic of Mediation

If possible, agree with your ex that you will attempt mediation. If you do not feel comfortable approaching your ex about the possibility of going to mediation, the mediator will be able to contact your ex for you to ask them if they would be willing to use mediation.

Step 2: Identify a Suitable Mediator

Make sure that the mediator has experience in the issues that you wish to discuss at mediation, and the necessary qualifications (such as being a Resolution accredited mediator).

Mediators must be separately qualified in order to be able to speak to children within mediation, and so if that is a possibility, make sure that a suitably qualified mediator is instructed from the outset. Similarly, where there are complex financial issues to be discussed (e.g. pensions, business assets, share options and bonuses) care should be taken to ensure that a suitably experienced and competent mediator is instructed.

Step 3: Contact the Mediator

The mediator will contact your ex to confirm that they are willing to mediate, and will schedule a time for the first mediation.

Before any mediation takes place, the mediator should talk to the clients and their solicitors to understand the issues and priorities so that they can work out the

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most suitable structure for the mediation process.

The mediator should discuss the number of meetings, the length of the meetings, whether the meetings will be with the clients together or separate, and whether their solicitors will be present at the meetings.

The mediator should then outline clearly in writing a bespoke plan, including costs and time-scales, so that everyone knows from the beginning what they are working towards, as well as the time frame and costs involved.

Step 4: Attend Mediation Sessions

The mediation sessions will then take place.

Where mediation is used to discuss finances following a separation, the mediator should encourage clients to provide the same level of disclosure in mediation as they would if they were in court proceedings.

The mediator should provide clear expectations and standards in relation to full financial disclosure before negotiation, including agreeing timescales and deadlines, with opportunities for solicitors to check and request further disclosure before providing advice on options for settlement.

There is often a need for involvement of experts, such as financial/tax experts, pension experts, valuers and family consultants.

The mediator should keep both the clients and their lawyers updated at every stage so that everyone is aware of the progress and what is happening.

The mediator should also reflect with clients at the end of each meeting on the progress made and how they feel about the process so far. If the mediator feels that they are not engaging in the process or that the process is not working for them, the mediator should tell them.

Step 5: Reach an Agreement

Once an agreement has been reached, a memorandum of understanding will be prepared which sets out the terms of the agreement. This should then be provided to the parties' lawyers so that the agreement can be documented into a court order, or a parenting plan, as appropriate.