



STOWE

FAMILY LAW

PREMIUM HANDBOOK

A BEGINNER'S GUIDE TO MEDIATION



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This handbook, a Beginner's Guide to Mediation, is an in-depth introduction to family mediation, explaining the process and principles of using mediation to help negotiate family disputes, including divorce and separation, child arrangements and financial matters.

This handbook is for general information only and should not replace legal advice.

We highly recommend you seek expert legal advice related to your unique circumstances from a specialist family lawyer, to ensure your legal rights are protected during divorce and beyond.

INTRODUCTION TO FAMILY MEDIATION

Family mediation is a constructive and cost-effective method of resolving family disputes.

This can be between divorcing couples, unmarried couples going through separation, or a number of other family matters. Working with a trained mediator supports disputing parties in settling key issues, for example financial matters in divorce and separation, or child arrangements after family breakdown.

Mediation supports open and constructive discussions which can help prevent communication challenges or conflict. Mediation is voluntary and all parties must willing and openly cooperate through the process. There is no obligation to engage with mediation but the majority of divorcing couples will need to attend a Mediation Information and Assessment Meeting (MIAM). Please see the FAQs at the end of this guide for further information.

Family mediation is commonly used for resolving issues that arise from divorce and separation. During mediation a qualified mediator enables open communication between you and your ex, keeping discussions on track and helping you reach an agreement you are both comfortable with. This approach allows you and your ex-partner to tackle important issues - like finances, property division, and child arrangements - without the stress and formality of a courtroom.

It is flexible, confidential, and builds a more positive foundation for each of you to move forward, whether as parents or just separating partners. As you are involved directly in decision-making, you also have more control over your outcome.



Family mediation can address financial and child-related issues together, or it can focus solely on **financial matters** or **child arrangements**, depending on the couple's needs. Matters mediation can help with include:



FINANCIAL ARRANGEMENTS

How assets and debts will be divided, interim finances and long-term options



CHILD ARRANGEMENTS

Deciding on living arrangements, childcare schedules, and decision-making responsibilities



PROPERTY AND HOUSING

Determining who will remain in the family home or how and when it will be sold



ONGOING COMMUNICATION

Establishing effective ways to co-parent and resolve future conflicts



PERSONAL MATTERS

Communication approach, setting boundaries and ground rules



PET ARRANGEMENTS

Deciding on the care of the family pet

The family courts are stretched to capacity, which can delay court proceedings for months or even years. But by resolving your disagreements out of court with mediation, it's likely you can resolve matters and finalise your divorce much quicker.

Mediation is generally less expensive than litigation, which can save both parties legal fees.

Family mediation is for people who:

- Want to maintain a civil relationship with their ex, particularly if they have children
- Want a quicker, more affordable solution
- Prefer to retain control over the outcome rather than having a judge make decisions for you

Mediation is not likely to work in situations involving domestic abuse or when one party refuses to engage in the process. When this happens, litigation may be the most effective way to resolve matters.

Speaking with a dedicated family lawyer will help you to establish your options so you can choose the best possible approach for your circumstances. Legal advice is encouraged once you have reached an agreement at mediation. Your specialist legal adviser can advise you whether the agreement you have reached is fair and whether this is something the Court would approve.

THE FOUR KEY PRINCIPLES OF FAMILY MEDIATION

1

YOUR CHOICE TO PARTICIPATE

Ongoing mediation is voluntary; you decide whether this approach to resolving differences is right for you.

2

COMPLETE CONFIDENTIALITY

Everything discussed in the mediation space stays private, with the exception of financial summaries, so you can speak openly. The only exception is if there's concern for the immediate safety of a vulnerable adult or child.

3

YOU STAY IN CONTROL

You and your ex-partner make the decisions. The mediator is there to guide the conversation, not to judge or decide the outcome for you.

4

FAIR AND NEUTRAL SUPPORT

The mediator is impartial and will work with both of you equally, helping you reach an agreement that works for everyone involved.





THE DIFFERENCE BETWEEN A FAMILY LAWYER AND A MEDIATOR

Some family mediators are qualified solicitors, however the role is distinct from their legal position. Mediators don't provide legal advice but can guide you within legal frameworks. It is recommended you seek expert legal advice alongside your mediation sessions.

THE ROLE OF A FAMILY LAWYER IN MEDIATION

We offer tailored legal advice to sit alongside your mediation process to ensure you are aware of your legal rights and responsibilities. Our specialist lawyers provide the necessary structure and will support with:

- Your understanding of the law and how it relates to your unique case
- Strategising for your mediation meetings – planning ahead and learning where to compromise
- Preparation for your mediation sessions

Remember, mediators, even if they are trained lawyers, cannot give you legal advice. An expert family lawyer is there to provide the legal advice and strategy planning you need in order to make the most of your mediation sessions.

Importantly, your mediation support lawyer is necessary to draft your agreements, such as your financial consent order, so they can be submitted to the family court.

Specialist family lawyers can also be actively involved in some forms of mediation, including hybrid mediation. This involves both parties and their appointed lawyers attending a joint mediation session with the aim of reaching a resolution.

THE ROLE OF A FAMILY MEDIATOR

Family mediators help divorcing couples, separating unmarried couples and families to resolve disputes about their futures by acting as a neutral third-party during constructive conversations between separating partners. Their role isn't to advise either side but to help both of you formulate a bespoke agreement that meets your exact needs and share ideas you may not have considered or know would be viable.

A mediator is not a judge and will not make decisions for you, but will guide you towards making decisions yourselves. During mediation sessions, a mediator will help to:

- Define the matters that need resolution
- Offer practical advice and potential short-term and long-term solutions
- Use their experience to find common ground
- Keep conversations on track and focused on reaching an agreement
- Ensure conversations remain factually correct and honest
- Offer legal information, not advice
- Intervene when discussions become unproductive
- Help manage conflict and emotions so things don't escalate
- Create a safe space to put forward ideas and explore resolution options
- Listen to both points of view and reiterate what's been agreed
- Advise on tools and resources to support divorcing partners



CHOOSING A FAMILY MEDIATOR

When choosing a family mediator, it's a good idea to look for someone accredited by the Family Mediation Council, as this ensures they have the appropriate qualifications and experience. The mediator should also be a good personal fit for both parties so you feel comfortable during mediation.

The initial Mediation Information & Assessment Meeting (MIAM) offers a chance to meet your mediator and see if you feel comfortable working with them. The mediation process will be explained and if you believe mediation could work for you, your ex will be invited to attend a joint mediation session.

A key part of a mediator's role is to build rapport with both parties, helping to create trust and ensure smoother, more productive discussions. Establishing a positive connection early on can make the mediation process more efficient and less stressful for everyone involved.



MEDIATION FOR SEPARATING PARENTS

If you have children, mediation can be especially beneficial. Having a third-party present during discussions can help you to calmly address key matters related to your children and their future, such as:

- Where the children will live
- When and how they will see each parent
- Holiday arrangements
- Plans for special occasions
- Decisions about schooling
- Surname changes
- Grandparent access
- Parenting approach and boundaries
- Introducing new partners
- Any other issues you both feel it's important to address

Decisions centred around children can be especially emotive, so resolving them through mediation can help. Mediation can also help with the transition to co-parenting, keeping conversations respectful and focused on the children's best interests.

THE FAMILY MEDIATION PROCESS

Separating couples and families can be referred to a mediator by a lawyer or they can self-refer.

1

INITIAL ASSESSMENT (MIAM)

Before starting mediation, or applying to court, parties must attend a separate Mediation Information and Assessment Meeting (MIAM). The mediator will contact each person to arrange this initial, individual assessment meeting. During the MIAM, the mediator will gather detailed information about your circumstances, carry out safeguarding screening to ensure that mediation is safe and suitable, and explain the principles of mediation and how it works.

2

FIRST SESSION

If all parties agree to proceed, the mediator will schedule your first joint session. With all people present, your mediator will define the core issues that need to be addressed as well as highlight the areas where you are aligned. Parties will have the opportunity to express their views.

3

SUBSEQUENT SESSIONS

In each session that follows you will continue to move conversations forward constructively. With the mediator's support you'll focus on resolving issues by considering all viable options and evaluating the impact on both partners and, crucially, any children. Throughout mediation, the mediator's aim is to facilitate productive discussions, encourage compromise and keep you both focused on the future.

4

REACHING AN AGREEMENT

Once agreements are reached and you've formed a plan for moving forward, the mediator will draft a memorandum of understanding. This document outlines the full details of the agreed terms and can later be drawn up into a formal document by a solicitor which can be made legally binding by the Court.





HOW TO PREPARE FOR JOINT MEDIATION SESSIONS

Joint mediation sessions will be relevant for divorcing or separating couples for relationship breakdown disputes. They may also be used for wider family disputes.

When your MIAM is complete and an agreement has been made to attend mediation, there are some practical steps you can take to prepare yourself for a successful mediation journey.

- Seek legal advice so that you enter discussions informed about your legal rights and responsibilities
- Ground yourself emotionally so you feel balanced
- Clear your head and regulate your emotions as much as possible
- Try to create the right mindset for productive discussion
- If you're struggling with past events, counselling or therapy can help you feel ready to focus on the future

If you are resolving financial matters on divorce, you will both gather and exchange financial disclosure.



FUNDING MEDIATION

HOW MUCH DOES MEDIATION COST IN THE UK?

Costs for family mediation can vary and depend on the number of sessions needed.

- Mediation Information and Assessment Meetings usually cost around £100-£150.
- Subsequent sessions generally range from £150 to £300 per hour per person.

Some mediators charge on a session basis, while others offer packages.

One of the benefits of family mediation is that it can help couples reach swift resolutions out of court. This can significantly lower the average cost of a divorce by avoiding court proceedings which require extensive legal fees.

Additionally, those eligible for Legal Aid can have these costs significantly reduced or entirely covered.

FAMILY MEDIATION VOUCHER SCHEME

The **Family Mediation Voucher Scheme** is a UK government initiative offering a £500 voucher to help cover the cost of mediation for any divorcing parents settling disputes about children or related financial matters.

DO BOTH PARTNERS HAVE TO PAY FOR MEDIATION?

Both partners typically share the cost of mediation, usually splitting it equally. However, the exact arrangement can vary based on personal circumstances. For example, some may agree to split the fees in proportion to their incomes. If one partner qualifies for legal aid, they won't pay, while the private-paying partner may only cover a portion of the sessions.

WHAT IF MY PARTNER WON'T AGREE TO PAY FOR MEDIATION?

If your partner refuses to pay for mediation, but you want to go ahead, you could agree to pay the full cost yourself. If this isn't feasible, you might choose to apply for a family court order, though this is a last resort as court processes take time and money, cancelling out some of the benefits of resolving disputes through mediation. Talk to your mediator, who can offer guidance on cost-sharing to help resolve the issue and move forward.

WHAT ARE THE ALTERNATIVES TO DIVORCE MEDIATION?

Mediation can be extremely effective but there are also other approaches to overcoming disputes that each offer unique benefits.



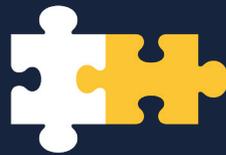
HYBRID MEDIATION

A process where both parties and their lawyers work together with the neutral mediator to reach an out-of-court agreement. Clients benefit from real-time legal advice.



SHUTTLE MEDIATION

Conducted online or in-person, the mediator moves between the parties, who remain separate, helping them negotiate without having to face each other directly.



COLLABORATIVE DIVORCE

Both parties and their lawyers commit to resolving the divorce through negotiation, agreeing not to take the case to court, focusing on open communication and problem-solving.



LAW-LED NEGOTIATIONS

Lawyers negotiate on behalf of their clients, attempting to settle the case before or during court proceedings with a judge making the final decisions if the parties cannot reach an agreement.



DIVORCE ARBITRATION

A private process where an appointed arbitrator makes binding decisions on divorce-related issues after reviewing evidence and hearing both sides, similar to a judge in court.

FAQS

1. IS MEDIATION COMPULSORY?

Mediation is not mandatory in **divorce** proceedings in England and Wales. However, most couples will need to attend a Mediation Information and Assessment Meeting (MIAM) before issuing any court proceedings, should they not be able to reach agreements directly between themselves. The MIAM will determine whether the issues can be resolved out of court. However, there are exceptional circumstances where attendance at a MIAM or engaging in mediation is waived.

2. WHEN IS MEDIATION UNSUITABLE?

Mediation relies on collaboration and a degree of mutual trust between separating partners. Where there have been or are ongoing issues with domestic abuse, safeguarding concerns relating to children, or where there is a power imbalance between ex-partners, mediation is not a suitable approach. In such cases, you should seek advice from a family lawyer, and a local domestic abuse organisation.

3. HOW LONG DOES DIVORCE MEDIATION TAKE?

The number of sessions needed varies depending on factors such as the level of cooperation between parties, and the quantity and complexity of the issues to be addressed.

Many couples have between two and five mediation sessions. This allows ample time to resolve issues related to finances and children before the divorce is finalised. Mediation ends once both sides are satisfied that all matters have been resolved.

4. WHAT IF MY EX REFUSES TO ATTEND MEDIATION?

If your partner refuses to go ahead with mediation, it can be difficult to overcome as both partners must be present. Ongoing mediation is a voluntary process so they can't be forced to attend. However, once the principles and objectives are explained during the MIAM, and they learn the potential benefits of mediation, they may become more willing to try it.

If your ex still refuses to attend without a valid reason, the court may consider the refusal when making decisions and impose costs.

5. WHAT HAPPENS IF WE CAN'T REACH AN AGREEMENT IN MEDIATION?

If mediation fails, you can consider other methods of Non-Court Dispute Resolution (NCDR) or proceed with court proceedings. The mediator will sign a form confirming mediation was attempted but unsuccessful, allowing you to move forward with court proceedings.

6. IS MEDIATION LEGALLY BINDING?

The agreements reached in mediation are not legally binding and would only become legally binding if an order was drafted by a specialist family solicitor and sent to the Court for approval.



THE IMPORTANCE OF LEGAL ADVICE

The importance of seeking legal advice alongside mediation cannot be understated. A lawyer will guide you through each step of the process, offering tailored advice and professional support to your unique circumstances, ensuring your legal rights are fully protected.

Although some aspects of divorce and family breakdown administration can be done without legal input, the advice of an expert family lawyer is invaluable when resolving finances and matters involving children.

A family lawyer will ensure your orders are drafted accurately, and you give the right information at the right time, so you can avoid pitfalls and delays, helping to ensure the legal process runs smoothly.

To help you navigate your journey, you can find additional information and resources relating to **mediation** and family law matters on **Stowe Support**.



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DISCLAIMER

The information in this handbook is as an overview, not a complete statement of the law, and should not replace legal advice. Information included applies to England and Wales. The law may be different if you live in Scotland or Northern Ireland.

WANT TO FIND OUT MORE ABOUT DIVORCE MEDIATION?

Request a **callback** with our dedicated Client Care Team or visit our website www.stowefamilylaw.co.uk

