



MEDIATION FACTSHEET

What is family mediation?

If you've just split-up, you're getting a divorce, or you've been separated for a while, you might need to sort out arrangements with your ex or other family members.

What is Family Mediation?

Family mediation is where an independent, professionally trained mediator helps you and your ex to work out an agreement about issues such as:

- Arrangements for children after you break up (sometimes called custody, residence or contact)
- Child maintenance payments
- Finances (for example, what to do with your house, savings, pension, debts)
- Divorce – whether you apply now or later.

It can also be used to help with the other issues you might face, for example, your children keeping in touch with their grandparents, step families, or in-laws. Mediation can also be helpful when arrangements you've made before need to change, particularly as your children grow up.

If you go to court to sort out your issues, the judge will make the decisions. You will need to stick to these decisions even if one or both of you feel unhappy about them.

Mediation can help you stay in control. No-one will make you do anything against your wishes. The mediator will help you find a solution which works for you both and explain how you can make an agreement legally binding.



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A judge will expect you to have considered mediation before you apply to a court to hear your case. They can refuse to hear your case until you have done this.

Most people who start mediation will reach agreement without having to go to court.

If you need to formally end a marriage or civil partnership, you will need to apply to the court to do this, but you will not usually have to attend a hearing.

About Family Mediators

Family Mediation Council registered mediators are trained professionals who work within the standards and code of practice set by the Council.

How family mediation helps

- It gives you more say about what happens;
- It's less stressful, with less conflict between you and your ex;
- The agreements you make can be changed if your circumstances change;
- It can be less upsetting or damaging for any children involved – and helps them continue important family relationships. If the children are 10 years old or more they can be seen in the mediation;
- It can be quicker and cheaper than long drawn-out court battles.
- You may be able to get mediation and legal support for mediation for free if you get legal aid /www.gov.uk/check-legal-aid



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What is a MIAM?

The first meeting with a mediator is often called a Mediation Information & Assessment Meeting (MIAM). Whether it's called a MIAM or a first meeting, it will cover the same things. The first meeting with a mediator gives you the chance to find out how mediation works. Mediators are trained to work out with you whether mediation is right for you and your family. They will also discuss how many sessions you may need, how much they would cost, and explain whether you might get legal aid to pay for mediation. The mediator can also give you information about other services that provide help and support and the other options you might have to resolve things.

Who can conduct MIAMs?

Only Family Council Accredited mediators (FMCA) can conduct MIAMS.

Do I have to go to a MIAM?

If you want to take your case to court, it is now – in most cases – a legal requirement to attend a MIAM. The other person involved is also expected to attend a MIAM, but they don't have to go to the same meeting as you.

There are exemptions that mean you might not have to go to a MIAM. It can also be agreed at the MIAM that mediation isn't right for you. There are a range of options available for resolving family disputes so, even if mediation isn't right for you, court isn't the only other option.



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Who goes to the meeting?

These meetings can be held separately from your ex. However you can go to the meeting together if you prefer. You can choose. Time will always be spent with each person alone to make sure they have made their own decision to come to mediation and are not at risk of any harm or abuse.

What happens after the first meeting?

If everyone agrees to try mediation then an appointment is made for your first mediation session.

If you decide not to continue into mediation or it's not suitable in your circumstances then the mediator will have to sign the relevant court form to show you have considered mediation.

This means you can take your case to court, if that's what you decide to do next.

Mediation meetings or sessions

If the first meeting (MIAM) goes well and you all agree to try mediation, you will book mediation sessions. It usually takes between three and five meetings to come to agreement, depending on what you need to sort out.

The mediator will usually see you and your ex partner together, although you should be offered the choice to see the mediator separately if you need to.



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What does the mediator do?

Mediators are trained to:

- Listen and help you both to work out what has to be dealt with
- Discuss what your options might be and what might work best for the future.
- Make sure you both have chance to speak and be heard
- Provide any information needed to help your discussions
- Tell you when you might need further independent advice on matters such as pensions
- Ensure decisions are made jointly, are fair for both of you, for any children involved, and for your family circumstances
- When you reach agreement, the mediator will put it in writing and make sure you're all clear about what it means.

Are the decisions we make legally binding?

The decisions you reach aren't legally binding on their own. But you can ask a court to make what you've decided into a legally binding consent order. Your mediator can explain what this is and how you can get a consent order.

There is a cost for this court application and your mediator will be able to provide information about this. If you get legal aid you may qualify for free legal advice and help with this.



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Can I get legal advice on whether the proposed agreement is fair for me?

Most people going through mediation find it helpful to have legal advice to support them. You can arrange this at any time and your mediator may also recommend you do if you are talking about things that relate to a legal issue. The mediator can give you information about local family solicitors and how to choose one. If you get legal aid for mediation, you may also get free legal advice during mediation.

What if things don't go as planned afterwards?

If your situation changes and the arrangements aren't working, you can go back to the mediator to change the original agreement.

If you've made an agreement legally binding and somebody doesn't follow it, you should consider whether it can be sorted out with the help of a mediator. If not, it can be enforced through the courts.

When you need legal advice

Some people find it helpful to have legal advice during mediation.

For example, legal advice may be helpful for:

- Advising on any legal matter connected with your mediation discussions
- Advising on the proposal reached through mediation
- Turning the written agreement into a legally binding document, such as a consent order
- Supporting you in preparing divorce papers for the court, if necessary
- You can get legal advice from a solicitor. You can arrange this at any point in the process.

It's important to make sure that the solicitor you choose specialises in family law.



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A family solicitor instructed by you will act for you and you alone but will also help you think about how decisions could affect other family members, especially any children involved. If you're talking about your issues and working to reach agreement through mediation, there is much less need for a solicitor's time. This means that legal fees can be kept as low as possible. You may not have to pay for legal help in support of mediation if you get legal aid.

When do I need to go to court?

There are a number of ways of dealing with family matters without having to make an application to court

- A divorce or dissolution of a civil partnership can only be granted by a court but this can be done without actually going to a hearing at court.
- For many people, sorting out arrangements for children and agreeing how to split property and finances can be done without involving a court at all.
- If you can't work things out between you or have a family dispute, you will be expected to
- try to sort it out using mediation before going to court.

What if I do need to go to court?

Going to court should be a last resort. But if you do need to go to court, you will still need to show that you have either attended a Mediation Information & Assessment Meeting (MIAM) or you don't need to attend a MIAM because of your circumstances. You need to do this by sending the relevant court form with your court papers.

The mediator can help you complete this at the first meeting or MIAM.