



FAMILY ARBITRATION FACTSHEET

What is family arbitration?

Family arbitration is a form of private dispute resolution in which you and your ex-partner appoint a fair and impartial family arbitrator to resolve your dispute. Family arbitration is an ideal approach for people who want to resolve a family dispute without the delay and expense of the court process. It allows you and your ex-partner to engage in a flexible process, with complete confidentiality, and the knowledge that a decision will be made. The family arbitrator will produce a decision after hearing from each of you. They will act fairly and impartially, giving each of you the opportunity to put forward your views. Family arbitration applies the law of England and Wales. It is different to other forms of non-court dispute resolution such as mediation and collaborative law in that you are guaranteed a decision which will be made for you.

Family arbitration can be used to help settle disputes relating to:

- **finance**
- **property**
- **child maintenance**
- **living arrangements for your children after separation**
- **the time your children will spend with their parents**
- **other arrangements concerning the upbringing of the children e.g. school choice or moving the children with a parent to a different part of England and Wales**



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Why choose family arbitration?

The court process can be long, complicated and expensive. It can increase conflict and confrontation during an already distressing period. Family arbitration provides a real alternative.

- **Speed:** Family arbitration is likely to be a lot quicker than going to court and the same person will deal with the dispute from start to finish.
- **Flexibility:** You can choose the venue and arrange meetings for dates and times that suit you. You can choose your family arbitrator. This means that if you have specific requirements, you can find a family arbitrator with the specialist knowledge that will help resolve your unique dispute.
- **Versatility:** You can decide whether the process is document only, conducted via telephone, or by face-to-face meetings. Issues may be dealt with all at once, or one after the other. You can decide whether you want the family arbitrator to look at the whole of a dispute or one part of it.
- **Confidentiality:** Family arbitration is essentially private; the media are not entitled to attend the hearings. The arbitration will take place at venues agreed by you and your ex-partner. Only the two of you, your representatives, the arbitrator, and any agreed experts or witnesses will be present.
- **Legal advice:** You can retain your own lawyer to advise you throughout the process.
- **Safety:** Your arbitrator will want to know that you and children will be safe from harm when deciding any arrangements for your children. You will be asked to provide some background information and information on any concerns you have and in some circumstances your arbitrator may be under a duty to contact external agencies. Should they arise, you should also discuss these types of concern with your lawyer.



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Finality: At the end of the arbitration you will receive a decision which resolves your dispute. The arbitration will be respected by the Court and it will be made an Order of the Court upon request.

Cost: Whilst the family arbitrator will charge a fee, the process is very likely to be less costly than the court process.

How much does it cost?

- **Family arbitrator's fees:** You, your ex-partner, and the family arbitrator will agree the level of the family arbitrator's fees at the start of the process. Fees are usually based on an hourly or daily rate, but may also be arranged on a fixed-fee basis. These costs will normally be shared between you and your ex-partner.
- **Venue hire:** There may be costs involved in hiring a venue for any meetings scheduled as part of the process. These costs will normally be shared.
- **Independent legal advice fees:** It is usually a good idea for both you and your ex-partner to take independent legal advice to help you through the process. Normally you and your ex-partner will each pay your own legal fees.
- **Experts' fees:** You and your ex-partner might require experts as part of the process. Again, these costs will normally be shared.



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How does it work?

Stage One: Preparation

- **Step 1** You and your ex-partner have a family financial or child dispute that you wish to resolve without going to court. You can use family arbitration to resolve the whole dispute, or one part of it.
- **Step 2** You both, with the help of your lawyers and using the IFLA website 'Search for an Arbitrator' function, choose a family arbitrator and establish his or her terms and availability: www.ifla.org.uk
- **Step 3** Together with your ex-partner, you complete, sign and send your application form (ARB1FS for a financial dispute or ARB1CS for a dispute concerning a child or children) by email to: info@ifla.org.uk. Alternatively, the form can be posted to: IFLA, PO Box 302, Orpington, Kent, BN6 8QX. The form gives you the opportunity to outline details of the dispute you are seeking to resolve. By signing the ARB1FS or ARB1CS you are both agreeing that you will be bound by the decision of the family arbitrator.
- **Step 4** The family arbitrator contacts both of you directly to confirm the appointment and then sends you both a formal letter of acceptance.



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Stage Two: The Family Arbitration Process

- **Step 5** The family arbitration process begins. How the process works is up to you and the family arbitrator. It may be a document-only process, or include face-to-face and telephone meetings. If there is a final meeting, this will take place at a date and time agreed between both of you and the family arbitrator.

Stage Three: Conclusion

- **Step 6** Both of you must pay the family arbitrator's fee, as well as any other costs involved, such as venue hire for the family arbitration meetings.
- **Step 7** The family arbitrator makes a decision. The decision is put in writing and delivered to you both. The decision will include written reasons. This is much like a decision made in court.
- **Step 8** Generally, both of you will take the family arbitrator's decision to court. By agreement, it will become a court order. It is highly likely that you will need a court order where there has been a financial decision but less so where the decision involves the arrangements for a child or children.
- **Step 9** You have a right to appeal if you think there has been a legal error or serious irregularity. Your lawyers can advise you on this.



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Where can I find out more?

Visit www.ifla.org.uk to:

- learn more about family arbitration and read the FAQs
- find a family arbitrator that meets your requirements
- read the rules of family arbitration
- download the application forms for family arbitration (forms ARB1FS and ARB1CS)

For further information please visit:

- www.resolution.org.uk
- www.flba.co.uk
- www.ciarb.org