



STOWE

FAMILY LAW

PREMIUM HANDBOOK

A BEGINNER'S GUIDE TO MEDIATION



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This handbook, A Beginner's Guide to Mediation, will explain the process and principles of using mediation to help negotiate the terms of your divorce.

This handbook applies to both divorce and civil partnership dissolution. It 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.

A BEGINNER'S GUIDE TO DIVORCE MEDIATION

Divorce mediation, or family mediation, is a constructive and cost-effective alternative to resolving disputes in court. By working together with a trained mediator, couples can settle key issues like finances and child arrangements in a supportive environment, without the confrontation of the courtroom.

In this guide, we'll walk you through how mediation works, its benefits and costs, and help you decide if it's the right path for you.





WHAT IS MEDIATION?

Family mediation is a helpful, Non-Court Dispute Resolution (NCDR) process designed to assist couples in resolving their disagreements with the guidance of an impartial mediator.

This approach allows you and your partner to tackle important issues - like finances, property division, and child arrangements - without the stress and formality of a courtroom.

With the support of an impartial mediator, couples who are invested in the process and willing to cooperate can settle differences in a way that works for both sides. This makes it a particularly effective way for divorcing couples to resolve disputes and move forwards.



WHAT DOES MEDIATION INVOLVE?

During **divorce mediation** a qualified mediator enables open communication between you and your ex, keeping discussions on track and helping you reach fair and amicable agreements.

It's a flexible, confidential process that lets you and your ex-spouse resolve issues together, either as parents or simply as adults.

Family mediation covers both legal and personal aspects of divorce, such as:



FINANCIAL ARRANGEMENTS

How assets and debts will be divided.



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

Although it may not be appropriate to discuss details at this stage, if they have questions, answer them truthfully.



PERSONAL MATTERS

Communication approach, setting boundaries and ground rules.

Unlike a judge, the mediator does not make decisions for you but instead guides you toward mutually agreeable solutions.

Mediation sessions usually last 90 minutes, and the number of sessions depends on the complexity of the issues. Many cases are resolved within three to five sessions, but this can vary.



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 mediation 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.





HOW DOES MEDIATION WORK?

Divorce mediators help divorcing couples to resolve disputes about their future by acting as a neutral third-party during constructive conversations between divorcing partners.

During mediation sessions a mediator will help broker divorce terms and agreements, as well as:

- 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 focussed on reaching 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.

WHAT DOES DIVORCE MEDIATION COVER?

Divorce mediation helps ex-partners resolve a broad range of topics including:

- Arrangements for **care of your children**.
- Interim financial arrangements while you are working out long-term options.
- Long term financial decisions regarding the family home, additional properties, pensions, debts and maintenance.
- How you will communicate with one another and work together as parents.
- Division of the contents of the home.
- Specific issues such as moving a child to a new school, proposed medical treatment or religious upbringing.
- Arrangements for care of a pet.
- The introduction of a new partner to the children.

Mediation can address both financial and child-related issues together, or it can focus solely on **financial matters** or **child arrangements**, depending on the couple's needs.

MEDIATION FOR DIVORCING 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 focussed on the children's best interests.



IS MEDIATION COMPULSORY?

Whilst mediation is not mandatory for **divorce** in the UK, most couples must attend a Mediation Information and Assessment Meeting (MIAM) before issuing court proceedings if they cannot reach an agreement on key issues such as property division, financial arrangements, or child custody.

It's not compulsory for couples to continue mediation beyond the initial assessment, or to reach an agreement through mediation, and couples may still proceed to court if mediation is unsuccessful or deemed unsuitable.

There's been much talk in recent years about making mediation a requirement for divorcing couples. This reflects a growing interest in using mediation to reduce UK Family Court backlogs. It also aims to help couples resolve family matters sooner, easing the emotional toll of lengthy, high-conflict divorce on children.

IS A FAMILY MEDIATOR A SOLICITOR?

A family mediator is a distinct role that's separate to family law, although some mediators may have legal backgrounds. Mediators don't provide legal advice but can guide you within legal frameworks and help find solutions that are in line with what the court would consider to be acceptable.

During mediation you will be encouraged to consult a family law solicitor alongside the process. Once agreements are reached between partners, your solicitor can help draft them into a formal, legally binding document.



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 divorce 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. This scheme is expected to run until at least April 2025.

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 IS THE TYPICAL PROCESS OF MEDIATION?

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

1

INITIAL ASSESSMENT (MIAM)

Before starting mediation, or applying to court, couples must attend a separate Mediation Information and Assessment Meeting (MIAM). The mediator will contact each partner 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 both parties agree to proceed, the mediator will schedule your first joint session. With both partners present, your mediator will define the core issues that need to be addressed as well as highlighting the areas where you and your ex are aligned. Both partners 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 focussed on the future.

4

REACHING AN AGREEMENT

Once agreements are reached between you and your ex and you've formed a plan for moving forward, the mediator drafts a memorandum of understanding. This document outlines the full details of the agreed terms and can later be made legally binding by a solicitor.





HOW TO PREPARE FOR JOINT MEDIATION SESSIONS

When your MIAM is complete and you and your ex-partner have agreed to continue attending 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're feeling 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.

HOW LONG DOES DIVORCE MEDIATION TAKE?

The number of sessions needed varies depending on factors such as the level of cooperation between you and your ex-spouse, 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 partners are satisfied that all matters have been resolved.



DOES MEDIATION HELP WITH DIVORCE?

If you've reached a deadlock on key decisions with your ex-partner, mediation can help tease out solutions and ideas that relieve the disputes and pave the way for mutual agreement. By resolving issues this way, you and your ex can avoid additional hostility caused by taking your divorce to court.

We know lack of communication is a common factor in divorce. Mediation supports open and constructive discussions which can help prevent communication challenges or conflict from impacting your divorce or **civil partnership dissolution** settlement.

Rebuilding communication skills through mediation helps rebuild lines of communication and create a framework for resolving future disagreements. Not only does this benefit your post-divorce relationship, but it also promotes cooperation which is especially helpful if you'll be co-parenting.

Divorce mediators can share ideas you may not have considered or known to be viable. They'll encourage you and your partner to think outside of the box to create bespoke agreements where beneficial, so you can formulate a plan that meets your exact needs.

Mediators will highlight where there is common ground which allows both parties to work from the same foundation, making it easier to reach an agreement quickly. Mediation is a collaborative, less adversarial process, giving you more control over the outcome by involving you directly in the decision-making.

The Family Courts are stretched to capacity, which can delay court proceedings for months or even years. But 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.



WHAT SHOULD I LOOK FOR IN 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 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.

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.



IS MEDIATION A GOOD THING OR A BAD THING?

There are many benefits to mediation, and it can be a very effective way of resolving matters respectfully in divorce. However, it's not for everyone and how beneficial mediation can be largely depends on the circumstances of each couple.

ADVANTAGES:

- With mediation, ex-partners remain in control and able to influence their divorce outcomes.
- Mediation fosters constructive and non-confrontational communication.
- It offers an opportunity to create more flexible, personalised outcomes than a court order.
- Mediators help couples to make informed decisions about their future.
- Decisions are made by the couple only, instead of a judge or magistrate.
- Mediators offer impartial guidance and manage expectations throughout.
- Mediation can help address power imbalances between divorcing couples.

DRAWBACKS:

- Mediation requires a certain level of cooperation between the parties so isn't suitable for all couples.
- If there is a history of abuse, power imbalances, or one party is unwilling to negotiate fairly, mediation may not be suitable.
- When emotions and conflict are high, other forms of Non-Court Dispute Resolution (NCDR) might be more suitable.
- Mediation isn't about the past, but about the future. This can be difficult for some partners.

For many couples, mediation can be a productive way to settle disputes, but it's not a one-size-fits-all solution. An initial MIAM will help determine if mediation is the right approach for you.



WHEN IS MEDIATION NOT AN OPTION?

Mediation relies on collaboration and a degree of mutual trust between partners. So, for couples with a history of **domestic abuse**, where there are safeguarding concerns relating to children, or where there is a significant power imbalance between ex-partners, mediation is not a suitable approach for dispute resolution and in some cases, the need for a MIAM is waived.

There are legal options for cases where domestic abuse is a factor. It is recommended you reach out to a legal professional, or your local domestic abuse support organisation.

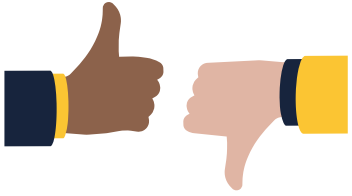
CAN I SKIP MEDIATION AND GO STRAIGHT TO COURT?

Although mediation isn't mandatory, you will usually need to attend a Mediation Information and Assessment Meeting (MIAM) to determine whether the issues between you and your ex can be resolved **out of court**. However, there are exceptional circumstances where you can go directly to court without a MIAM. These include situations where you feel unsafe in mediation, where there are safeguarding concerns regarding children, or a history of domestic abuse.

WHAT ARE THE ALTERNATIVES TO DIVORCE MEDIATION?

Whilst divorce mediation can be extremely effective, there are other approaches to overcoming disputes that each offer unique benefits.

- **Lawyer engaged mediation:** A process where both parties work with their respective lawyers and a neutral mediator to reach an agreement on divorce issues without going to court.
- **Hybrid mediation:** Combines traditional mediation with other forms of dispute resolution, allowing parties to have legal advice during the mediation process or bringing in experts for specific matters.
- **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.
- **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.
- **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.



IS FAMILY MEDIATION WORTH IT?

Family mediation is a valuable tool for resolving conflicts in a less adversarial and more cost-effective manner than litigation. It is especially worthwhile if you co-parent with your ex-partner.

If mediation doesn't lead to an agreement, a judge or magistrate will decide what happens for you and your children. This means crucial choices will be out of your hands, giving you limited control over the outcome.

Family mediation is worth it if:

- You want to maintain a civil relationship with your ex-partner, particularly if you have children.
- You want a quicker, more affordable resolution than a prolonged court battle.
- You prefer to retain control over the outcome rather than having a judge make decisions for you.

Mediation may not be suitable 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.



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.

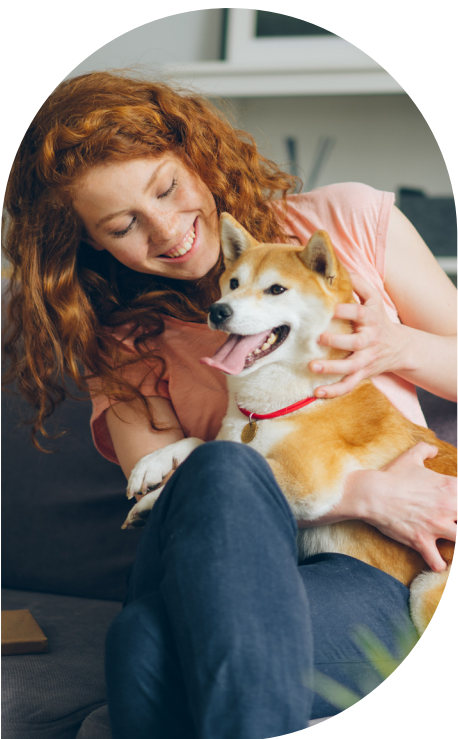
If your ex still refuses to attend, the court may consider the refusal when making decisions.

WHY THE DRIVE TO AVOID THE FAMILY COURT?

The UK Family Courts are stretched beyond capacity, causing backlogs and leading to significant delays in resolving family disputes. Prolonged conflict is known to have a detrimental impact on families, particularly on children's well-being and stability. In addition, lengthy, drawn-out court battles are costly, and the decisions made by a judge on behalf of a family can feel imposed and impersonal.

Encouraging families to settle disputes out of court alleviates backlogs within the Family Court, freeing up court intervention for only the most serious and contentious cases.

In contrast to court proceedings, mediation offers families a non-adversarial approach to dispute management. It aims to empower former couples, promoting cooperation and communication, and helping to prevent relationships from deteriorating further. It's also a quicker and more cost-effective way to resolve disagreements, helping to lower costs and the overall impact on a family navigating challenge.



FAQS

1. CAN MEDIATION BE USED FOR ANY TYPE OF FAMILY DISPUTE?

Yes, mediation can resolve disputes involving child arrangements, financial settlements, property division, and even arrangements for pets.

2. 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.

3. IS MEDIATION LEGALLY BINDING?

The agreements reached in mediation become legally binding when they are formalised by a Consent Order drafted by a specialist family solicitor. However, in cases involving children, a parenting plan can be a more appropriate option.

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, tailoring advice and professional support to your unique circumstances, ensuring your legal rights are fully protected.

Although some aspects of divorce 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 guide applies only to England and Wales. The law may be different if you live in Scotland or Northern Ireland. This guide serves as a generic overview and source of information. It is not a substitute for legal advice and is not a complete statement of the law. Please seek legal advice where possible.

NEED MORE INFORMATION?

Call our Client Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit **stowefamilylaw.co.uk**

