

## What Is Family Mediation?

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Mediation can be a highly effective way of resolving family disputes involving children, housing and finances.

A major benefit of a mediation is that it can significantly reduce the anxiety, animosity, cost and delays that can result from court proceedings. It is important to stress that mediation does not aim to rescue relationships; it is for couples who have decided to separate but are in disagreement over some or all of the future arrangements.

With all the emotion of a separation, people often find it hard to resolve their differences (which often involve complex and technical details over child residency and the division of assets) while the adversarial nature of court hearings can lead to increased ill feeling. Mediation services take a different approach and offer a safe, supportive, impartial environment and expert guidance with the emphasis firmly on narrowing divisions and seeking common ground. Removing the confrontation in this way can make it easier for those taking part to reach a mutually acceptable agreement for the benefit of themselves and their family.

The essential element at the heart of family mediation is that it is the family members themselves who make decisions – rather than having a settlement imposed by a judge. Many people find this approach especially welcome where there are children involved. Parents are encouraged to work together to find the best solution, creating a solid platform for future co-operation which can prove highly beneficial. Similarly, maintaining cordial relations after a separation can be of great benefit where those involved have shared business interests.

Family mediation has an impressive track record at a national level with more than 70 per cent of cases resulting in a successful outcome, according to figures from the Family Mediation Council (FMC). It is not compulsory to take part in mediation but, by law, someone applying to the Court must evidence that they have considered it as an option before going to court (apart from a small number of individuals who may be exempt, such as in cases where there has been domestic violence or where a child may be at risk). That person must attend at least one Mediation Information and Assessment Meeting (MIAM) before it is possible to start legal proceedings.

### How does mediation work?

The family mediation process follows four key principles:

- Mediation is voluntary; both parties and the mediator have to agree that mediation is a suitable way to move forward.
- Mediation is confidential, except where there are concerns of a risk to a child or vulnerable adult or of a criminal offence being committed.

- The mediator is impartial; they facilitate negotiation and must maintain the trust and confidence of both people for the process to be successful.
- Decision-making rests with the participants to the mediation; there is no imposed solution from a judge.

The couples/family members will meet (in person or online) with a family mediator, who will be an expert in family law and specially trained to help them resolve their issues.

The mediation will consist of five key steps:

1. Introduction: The mediator explains to each person separately how the process works and responds to any questions or concerns.
2. Communication: The parties outline their respective aims and objectives, making it clear what they want to achieve from the mediation process
3. Information: The participants in mediation both provide all the information that is relevant to the case – be that financial & / or relating their children. It is important for this information to be available as it will underpin the discussions that follow.
4. Bargaining: The parties and the mediator work together to identify and explore possible solutions. Unlike in a court hearing, there will be the opportunity for the parties to work in tandem to reach an agreement.
5. Resolution: The parties reach a settlement which provides a solid platform for them to move on with their lives.

A key feature about mediators is that they are impartial, and so it is easier to avoid the ill feeling and hostility that can result from a court hearing where both sides are represented by their own lawyer.

The role of the mediator includes:

- Setting the agenda and steering the meeting so that there is time to discuss all points
- Making both parties aware of what they need to do to reach a settlement
- Helping the parties to identify the areas of disagreement
- Assisting them in exploring possible solutions
- Ensuring that both parties are able to present their views in a safe environment without interruption
- Keeping the tone of the meeting respectful and constructive
- Asking questions when necessary to encourage people to share their views
- Summarising the points made by each party to aid understanding
- Taking notes on what has been agreed and on what still needs to be resolved – enabling the parties to focus on the discussion
- Using their expertise as a family lawyer to provide relevant legal information
- Providing details of how to access additional information (e.g. advice on pensions)

Many feel that this process creates a much more positive atmosphere than a court hearing with families given self-determination over their future lives. A formal legal process can be damaging to an individual's confidence and self-esteem as accusations are exchanged, and the case ends with a settlement imposed by a judge. With mediation, participants have the satisfaction of knowing that they have worked in a positive manner and had a major say in the eventual solution.

Family mediation is also a quicker option than going to court. This has become particularly important following the Covid-19 pandemic, which has led to backlogs and delays in the legal system.

The parties can also ask a court to make their mediated solution legally binding – although many families feel this is unnecessary after having arrived at the settlement themselves. It is possible to begin family mediation even if you have already made an application to have your case considered in court. The flexible nature of mediation also means that sessions can resume at a future date should your circumstances change. For example, partners may feel that revised childcare arrangements are necessary as their children grow older.

### How do I start mediation?

Starting the mediation process is simple and straightforward. At Wilson Browne we have been running a successful service for many years and are here to guide you through the process, so please get in touch as soon as possible.

The first step will be for you to complete a Mediation Referral Form. We will then arrange a time for you to attend a MIAM. Ideally you should contact the other party yourself to suggest they attend their own MIAM with our mediator as well, but we can always invite them to attend a MIAM.

The MIAM where you will meet with the mediator separately will:

- Provide you with confidence as to the principles and procedures of mediation
- Discuss any queries you may have about how mediation works and any concerns that you may have
- Establish whether mediation is the best way for you to proceed and, if so, make preliminary arrangements for an initial joint session

If both parties and the mediator are agreed that family mediation is appropriate that can proceed on the basis of the 'agreement to mediate' signed by those participating in the sessions. Figures from the FMC show that, nationally, three-quarters of people who attend a MIAM progress to mediation sessions.

### What happens at family mediation?

Having taken the decision to go ahead with mediation, the next step is for the separating couple and the mediator to hold confidential joint meetings to discuss the areas of disagreement and arrive at solutions. A major advantage over court proceedings is that there is much more flexibility over the date and length of the sessions, so they can be arranged to fit in with the parties' work and childcare commitments, further reducing the risk of stress and anxiety.

More than one session is usually required to reach an agreement that is likely to work in practice; this has the added benefit of providing time for reflection and for the new arrangements to be tested in practice. However the number of sessions and the length of those meetings is entirely determined by what is agreed by those involved.

If full agreement is not reached then the couple can take independent legal advice and consider going to court. Even in this instance, mediation has often still been worthwhile with areas of dispute having been reduced during the sessions. This means that any court hearing is likely to be shorter, cheaper and less stressful than would otherwise have been the case.

### What are mediation services?

Mediation services see family law specialists use their knowledge, training and experience to help both parties identify and resolve their differences.

The family mediator is impartial and acts as a trusted facilitator to encourage and enable the separating couple to work together positively.

Edward Rawlins, the head of Wilson Browne's Family Mediation Team, has more than 20 years' experience in family law and has helped many separating couples reach a successful resolution through the mediation process.

Wilson Browne's family mediation service follows the FMC Code of Practice for Family Mediators to provide a guarantee of integrity.

### How much do mediation services cost?

Wilson Browne's family mediation service provides a cost-effective, time-effective and mutually acceptable way of resolving differences at what can be a very stressful time for individuals.

The cost of the MIAM is £162 (including VAT) per person. Attendance at Mediation Sessions are at the hourly rate of £165 (including VAT) payable by each participant.

### Family mediation services near me

Wilson Browne offers mediation at our offices in Northampton, Kettering and Higham Ferrers.

Alternatively, meetings can be held remotely; we have a whiteboard facility available to enable all participants to illustrate their points as they would do in a face-to-face meeting.

### Where can I find out more about family mediation?

Wilson Browne's family mediation service helps people resolve disputes by working in a constructive and respectful manner.

This brings peace of mind in both the short and long run as parties often find it easier to maintain positive relationships after having avoided the acrimony and division of a court hearing.

Please get in touch to find out more about how we can help you and your family.

Call [0800 088 6004](tel:0800 088 6004) or fill in our [online form](#).

Updated Jan 2022