

HIGGINS MILLER SOLICITORS

MEDIATION

Mediation is an alternative form of resolving disputes between couples or parents. It is designed to bring parties together to discuss matters to hopefully together reach an agreement to their dispute. It covers most private family disputes including those over children and financial settlement following divorce or separation.

Mediation sessions are conducted by either one or two trained Mediators depending on the nature of the dispute. They are independent of the parties to a dispute and will not attempt to give either party independent legal advice, although they are trained in the relevant areas of law. Mediation offers the chance to talk about, manage and resolve issues arising from the breakdown of a relationship.

Many people decide to use mediation themselves. Many people find mediation less stressful than Court. It helps both parties to negotiate and make decisions about what is right for them. It can be quicker and more cost effective than using the Court route. Agreements reached in mediation tend to last.

Indeed in most cases mediation must at least be considered via a Mediation Information and Assessment Meeting (MIAM) before a party can start court proceedings about financial or children issues.

Mediation is not free. However for those parties who are financially eligible legal aid for mediation is available provided that the mediator holds a contract with the Legal Aid Agency. Additionally legal aid is available for advice from a solicitor during mediation provided the mediator has completed the relevant form and subject to financial eligibility.

Each joint mediation session takes between one and one and a half hours. Usually each case requires between one to five sessions, depending upon the complexity of the case.

Any agreement reached at mediation is not legally binding. At the conclusion of mediation the mediator will provide a summary of agreement which can be incorporated into a Court Order or legally binding document. During mediation the mediators cannot provide independent legal advice, this can be obtained from a solicitor between sessions.

The discussions in mediation are “without prejudice”. This means that if an agreement is not reached the discussions cannot be referred to in any subsequent court proceedings.

We are not mediators. We often refer clients to see mediators whilst retaining the ability to advise our clients throughout the mediation process.