

Mediation

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What is mediation?

Mediation is the process in which separating couples obtain independent and impartial assistance to resolve property, financial and/or children issues in private and to try to reach a mutually acceptable negotiated settlement.

A Mediator is a skilled and neutral person who helps the separating couple to come to a mutual understanding of the issues and to fashion a solution which, for their particular circumstances, may be better than any solution imposed by a Court.

What does “In Private” mean?

Court Proceedings are a formal process and parties often have to give evidence in Court. Mediation, however, is completely private; the Mediator is independent and professionally trained and discussions with the Mediator are kept strictly confidential; the only exception is where the life or safety of anyone, particularly a child, is in danger.

What issues does Mediation Cover?

There are normally a range of decisions that should be made following separation or divorce. These may include arrangements for the children, housing, finance and property matters. When couples separate and they have children, their children need the continuing interest and involvement of both parents in their lives and in the decisions that have to be made about them.

Many parents find mediation helpful in arriving at decisions about the future of their family. There is much evidence now that it is not the separation or divorce in itself that can cause emotional damage to children, but the conflict between the parents during the process and subsequently.

Is it for married couples only?

It is for couples who are ending their relationship whether they are married or not. It also applies to same sex couples. It is also for couples who are already separated or divorced but who, in the light of changing circumstances, wish to work out new arrangements for themselves or their children.

Is mediation binding?

A mediated agreement is not binding on the parties to the mediation. However, whatever agreements the couple reach during the course of the mediation will be incorporated into a Memorandum of Agreement and will be signed by them both. The Memorandum will also list any issues which were not resolved and remain to be settled. If the couple agree, copies will be sent to their respective Solicitors who can advise on putting the agreed solutions into a binding Court Order.

Do I need a lawyer if I am in Mediation?

The Mediator cannot give you legal advice, even if he or she is a lawyer by training. Both parties need their own solicitors to give them legal advice about the matters discussed in mediation, to obtain any Court orders necessary at the conclusion, and to put the terms of the Court order into effect.

To ensure independence, the Mediator must not be a member of the same firm as either of the couple's solicitors.

What are the benefits?

One of the most important benefits is removal of the stress that can occur in litigation.

Mediation with its potential speedier access to solutions allows parties to embark on more productive and co-operative relationships sooner. In family matters mediation enables couples to resolve disputes with fairness and a degree of dignity.

How long are mediation sessions?

Meetings will usually last 60 minutes and be no longer than 90 minutes. The number of meetings will depend on the number and the nature of issues to be resolved.

Would mediation be suitable for us?

One myth about mediation is that you have to be having a friendly separation or divorce in order to use mediation. Mediation was specifically designed as a

process to resolve disputes. Couples are expected to be in conflict in some way or to have conflicting interests.

Mediation may not be appropriate in certain circumstances, such as, where there has been domestic violence between a couple.

If, despite any differences you have with your former partner, you want to avoid Court proceedings and achieve a fair settlement you will almost certainly benefit from mediation. Whatever the outcome mediation can reduce the level of disagreement and helps couples to find ways of cooperating and resolving the problems that will arise in the future...

...talk to us