

# Non-Court/Alternative Dispute Resolution (ADR) options for separated couples

Many separating couples wish to avoid the court process as this can be an expensive and stressful method of resolving family disputes. Whilst court is not always avoidable in every case, there are a number of other non court/alternative dispute resolution (ADR) options available to separated couples.

## DIY settlement

Reach an agreement between yourselves.

The settlement, particularly if a financial settlement, will need to be incorporated into a legally binding consent order and filed with the court for approval by a judge.



### How can we help?

We can advise you on the fairness of any agreement reached and help convert your agreement into a draft consent order for approval by the court.

## Solicitor-led negotiation

You can appoint a solicitor to act on your behalf to negotiate with your former partner or their solicitor.

As before, a settlement will probably need to be incorporated into a consent order.



### How can we help?

We can negotiate on your behalf to help you reach the best settlement for you and your family, help you to obtain evidence such as valuations and pension reports and when agreement is reached, embody that into a draft consent order for approval by the court. If there is no agreement, we will advise on alternative options/strategies

## Mediation

You and your former partner instruct an independent and neutral mediator who you meet together.

Should the mediation appointments lead to an agreement, this can be drawn up into a memorandum of understanding and then incorporated in a court order if appropriate.



### How can we help?

We can support you during the mediation process. Sometimes lawyers are involved in the mediation process itself.

We can provide advice in relation to any potential agreement and help you to record any memorandum of understanding into a consent order for approval by the court.

If mediation breaks down, we will help you to consider other methods to resolve your dispute.

## Collaborative practice

You each instruct your own collaborative practitioner and enter into an agreement committing to finding the best outcome for the family through a series of meetings. You opt out of going to court.

If an agreement is reached, the lawyers can prepare a draft consent order for approval by the court.



### How can we help?

We can act on your behalf as your collaborative practitioner.

If negotiations break down a new lawyer must be instructed to commence court proceedings or consider other options.

## Arbitration

You and your ex will appoint an arbitrator at your own expense. You will then attend a series of arbitration hearings.

The arbitrator will make a decision which can then be converted into a court order.



### How can we help?

We can act on your behalf and support you throughout the arbitration process including negotiating a settlement if possible.

We can assist with preparing your case for the arbitration hearing and advising you of the potential outcomes.

## Definitions

**Arbitration:** A privately funded, out of court, form of dispute resolution which can provide an outcome if matters proceed on a contested basis. It is a highly adaptable process where both parties work with their appointed arbitrator to manage the case. If agreement cannot be reached the arbitrator will make the decision.

**Collaborative practice:** A family law process which involves parties engaging their own collaboratively trained solicitors. Both parties and their solicitors agree in writing not to go to court. All issues are discussed in 4 way meetings, whether in person or remotely, through video conferencing.

**Consent order:** When the parties reach an agreement which resolves the dispute, the agreement is written up into a document (draft order) which is signed by both parties and records the agreement which has been reached. Once this consent order has been approved by a judge and sealed by the Court it becomes legally binding. It could relate to children and/or financial matters.

**Expert advice:** This may include property valuations, an actuarial (pensions) report, tax evidence etc.

**Family Procedure Rules 2010 (FPR 2010):** The rules of court which govern family cases.

**Financial disclosure:** This is providing the other party with a full statement of your current financial situation. It is usually documented within a Form E and will include supporting documents i.e. bank statements, mortgage statements, payslips, pension valuations.

**Financial order:** A court order that deals with the financial aspects of a divorce or civil partnership dissolution. It may be made by consent if the parties agree.

**Form E:** Financial statement. This a detailed form setting out your financial details, including the needs of yourself and any children. Both parties have a duty to provide full and frank disclosure in Form E which includes providing details on capital, income and pensions. Any supporting evidence required is identified in the Form E and must be provided.

**Matrimonial Causes Act 1973:** The main body of law within England and Wales that governs how divorce and finances are dealt with.

**Mediation:** A confidential and impartial family law process. Together with your chosen mediator, the parties set the pace and agree topics for discussion and frequency of meetings. The mediator helps facilitate a supported conversation, it is not about relationship counselling, but helps the parties to try to reach an agreement in respect of finances. Solicitors can be involved in the process.

**MIAM – Mediation Information and Assessment Meeting:** This meeting provides information about the mediation process. It is conducted by a trained mediator who will assess whether mediation is suitable taking into account the particular circumstances of the case. It should be held within 15 working days of contacting the mediator. A MIAM must be undertaken prior to the issuing of any financial remedy or children application unless an exemption applies. A MIAM certificate is time limited and must be used within a certain period or it lapses (currently four months).

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