

Family Mediation

Dealing with relationship breakdown
without going to court



A free and confidential service paid for by legal aid
0845 345 4 345 www.communitylegaladvice.org.uk

community
legal advice

If your relationship is breaking down, you will probably be concerned about making arrangements for the future, especially if you have children. This leaflet explains how you can do this without going to court, by using family mediation.

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 10 for sources of information and advice.

What is mediation?

If you are getting divorced or separating from your partner, it is usually better if both of you can sort out the arrangements for the future between you. Mediation can help you reach decisions about these arrangements together. An arrangement that you and your partner have agreed between you is more likely to work in the long term than one that a court imposes on you.

Mediation aims to help you find a solution that meets the needs of you, your partner and any children, and that you all feel is fair. At the end of mediation, you should feel that there has been no 'winner' or 'loser', but that you have come to an arrangement that you can all live with.

Mediation can help to reduce tension, anger and misunderstandings, and improve communication between you and your partner. This is especially important if you have children, because you will both have to continue to co-operate over their care and upbringing after you have separated.

You may want to read this leaflet alongside one of the Community Legal Advice leaflets 'Divorce and Separation' or 'Living Together'. These have more information about your legal rights if your relationship has broken down.

Who can use mediation?

Anyone can use mediation – it does not matter whether or not you are married or have children.

You can use mediation to help you decide whether your relationship is over, but it is not marriage guidance, and the mediator's role is not to help you and your partner stay together. If you and your partner decide that you would like to try to stay together, then you may want to seek counselling (see 'Is mediation the same as counselling?' on page 6).

Mediation is always voluntary. However, for mediation to work, you and your former partner both need to take part, and neither of you should feel threatened or pressured by the other. It is also important that you are prepared to share information about your situation with each other. If you find that mediation is not working for you, you can stop it at any time. If either you or your former partner stops attending mediation, then the process finishes.

What can I use mediation for?

You can use mediation to help make decisions about any or all of the issues between you, including:

- arrangements for your children;
- financial arrangements;
- what will happen to the family home;
- other practical issues to do with your separation or divorce; and
- how you and your ex-partner will communicate with each other in future.

At what stage can I use mediation?

You can use mediation at any stage when you feel it would help, whether you are:

- still living together;
- living separately; or
- already divorced.

You can use mediation whether or not you have been to a solicitor, and whether or not you have started court proceedings.

What if my partner is violent or threatening?

Mediators must make sure that you and your partner feel safe. So the mediator will check with each of you separately before and during mediation to see whether there is a problem of violence or abuse.

If you are worried about your safety or your children's safety, you should tell the mediator. The mediator will probably say that you should see a solicitor (if you have not already done so). If you need a court order to protect you from your partner, your solicitor can help you apply for one.

If you do not want your partner to know your address or phone number, you should tell the mediator. You can also ask for separate waiting areas when you come to mediation discussions.

See 'Further help' on page 10 for names of organisations that can help you if you feel you are at risk of violence from your partner.

What if I don't use mediation?

You don't have to use mediation to sort out arrangements for the future – you can negotiate directly with your partner and reach agreement without any outside help.

You can ask a solicitor to negotiate with your partner for you, either directly or through your partner's solicitor. Your solicitor may still suggest that you try mediation to settle a particular problem between you.

You can apply to the court to settle your dispute for you. However, the court will encourage you to reach agreement between yourselves if you can. If you have not already tried mediation, the court may suggest you do.

Do I still need a solicitor if I use mediation?

You may find it helpful to talk to a solicitor before you start mediation so that you know where you stand legally, especially for money matters.

Mediators can give you general information about the law and how the legal system works. However, they cannot give you legal advice or tell you the best course of action for you. So you should get your own independent legal advice from a solicitor, both during mediation and at the end of it, to make sure the agreement you have reached with your partner is best for you. You may also need a solicitor to draw up a formal agreement or an order for the court to make your decisions legally binding.

Is mediation the same as counselling?

No – counselling is about you and your relationship. It can help you to understand and deal with your feelings and emotions. Sometimes counselling is intended to help couples stay together.

Mediation is about the practical and legal arrangements you and your partner make about your children or your property. It is a way of making decisions and settling any disputes after you have decided to separate.

The mediator may suggest you see a counsellor if:

- they think it would be a good idea for you to talk to someone about how you are feeling; or
- you and your partner decide you want to give your relationship another go, and you need help to do this.

What happens in mediation?

Mediation takes place in a private and informal setting, with usually only the two of you and the mediator (or sometimes two mediators).

Before mediation starts, the mediator will normally hold an assessment meeting, which you and your partner can attend either separately or together. Either way, you will be able to speak to the mediator on your own.

At this assessment meeting, the mediator will see if your case is suitable for mediation. They will also explain how mediation works, so you can decide whether this is how you would like to try and deal with issues to do with your relationship breakdown.

The mediator is there to help both of you and to make sure that:

- you and your partner each listen to what the other has to say;
- you understand each other's needs and concerns; and
- you try to find a solution.

The mediator will not tell you what to do and will not take sides, but they can share ideas with you and help you look at different solutions.

If you need to sort out financial arrangements, the mediator will ask you to fill in a form, giving full details of:

- what you earn;
- what you need to spend your money on;
- your assets and property, and pension arrangements;
- loans or other debts; and
- other important information.

If you do not give correct and complete information to the mediator, a court could overturn any agreement you make.

Is mediation confidential?

What you say in mediation is normally confidential, and the mediator will pass on information to someone else only if both of you agree. However, there are two situations where they might not keep to this:

- If the mediator believes that someone (a child, for example) has been seriously hurt, or is at risk of being hurt, then the mediator should make sure that the police or social services are told.
- If the mediator believes that you or your partner is benefiting or has benefited from the proceeds of a crime, the mediator will have to stop the mediation and report this to the authorities.

In general, what you say in mediation cannot be used in court later if mediation breaks down. However, this rule does not apply to financial information that you give, such as details of your income and property. This information can be used in later court proceedings and passed to lawyers.

How long does mediation take?

Mediation usually lasts for between two and five sessions, each of about an hour and a half. However, the time it takes depends on how complicated your situation is.

What happens at the end of mediation?

If you and your partner can come to an agreement about matters to do with your relationship breakdown, you will usually get a written summary of the decisions you have both made. This is not a legally binding document and you should still see a solicitor before you commit yourself to a legal agreement or a court order.

How much does mediation cost?

There is no standard fee for mediation. Different mediators charge different rates, usually by the hour or by the session. Some mediators have a 'sliding scale' of fees, which means that the amount you pay depends on how much you earn.

If you can't afford mediation, you may be eligible for legal aid through the Community Legal Service. The mediator can assess you for this at a first meeting. To find out more about this, see 'The Community Legal Service' on page 11.

How do I find a mediator?

It is important that you use a mediator who has proper training in family mediation. You can find one through the organisations listed on page 10. Alternatively, if you have a solicitor, they should be able to give you details of family mediators in your area.

If you think you may be able to get legal aid to pay for mediation, contact Community Legal Advice to find names of mediators in your area who can take your case.

Further help

Community Legal Advice

Provides free information direct to the public on a range of common legal problems.

Call 0845 345 4 345

If you qualify for legal aid, get free advice from a specialist legal adviser about benefits and tax credits, debt, education, employment or housing. Also find a high quality local legal adviser or solicitor.

Click www.communitylegaladvice.org.uk

Find a high quality local legal adviser or solicitor, link to other online information and see if you qualify for legal aid using our calculator.

Organisations that can provide details of family mediators in your area

Family Mediation Telephone Helpline

0845 60 26 627

www.familymediationhelpline.co.uk

UK College of Family Mediators

phone: 0117 904 7223

www.ukcfm.co.uk

Family Mediators' Association

Phone: 0808 200 0033

www.fmassoc.co.uk

The Law Society

Phone: 0870 606 2555

www.lawsociety.org.uk

National Family Mediation

Phone: 01392 271610

www.nfm.u-net.com

Resolution (formerly the Solicitors Family Law Association)

Phone: 01689 820272

www.resolution.org.uk

For help and advice if your partner is violent towards you or your children

National Domestic Violence Helpline run in partnership by Women's Aid and Refuge

phone: 0808 2000 247

www.womensaid.org.uk

www.refuge.org.uk

The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC Leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the website: www.communitylegaladvice.org.uk

*Community
Legal Service*



The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at www.legalservices.gov.uk or find the details for your local Legal Services Commission office in the phone book.

legal services
COMMISSION

The leaflets are also available online at: www.communitylegaladvice.org.uk

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- 2 Employment
- 3 Divorce and Separation
- 4 Renting and Letting
- 5 Buying and Selling Property
- 6 Losing your Home
- 7 The Human Rights Act
- 8 Claiming Asylum
- 9 Welfare Benefits
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Advice Guides

- G1 A Step-by-Step Guide to Choosing a Legal Adviser
- G2 A Step-by-Step Guide to Legal Aid

The leaflets are also available in Welsh, Braille and Audio.

To order any of these leaflets contact the LSC leaflet line on **0845 3000 343** or email LSCLeaflets@ecgroup.co.uk or fax 020 8867 3225.



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