

Mediation vs court: mediation is the way forward



With family courts experiencing a substantial backlog and the government supporting mediation with a new voucher scheme, mediation is likely to become more widely used in the future.

It is already the case that when dealing with financial affairs and arrangements for children, couples are encouraged to use mediation to try and reach an agreement between themselves without the need for litigation. Before an application can be made to the court for an order, there is a requirement to attend a Mediation Information Assessment Meeting (MIAM), unless you are exempt, for example, because of domestic abuse. You can attend on your own or with your spouse. The meeting will take place with a mediator who will provide you with information about how the mediation process could help you resolve contentious issues. The mediator will also assess whether mediation could help in your situation.

The benefits of mediation

A neutral mediator will work with both parties and help them explore potential solutions. The mediator will not make any decision, and any resolution will be reached by those involved. This means that, unlike court, a result will not be imposed on the parties. Mediation is generally quicker, less stressful and more cost-effective than going to court. It can also help prevent relationships from deteriorating any further, which is particularly helpful if there are children involved and the parents will need to continue to work together into the future. A mediator can also help the parties see what the other person might need and steer them both towards a fair and practical solution.



The Family Mediation Voucher Scheme

In March 2021, the Ministry of Justice launched a mediation voucher scheme to assist families with the cost of mediation so that they can try to avoid the need for court.

The scheme provides up to £500 towards the costs of mediation for eligible cases.

At your MIAM, the mediator will assess whether your case could benefit from mediation and whether you will be eligible for a mediation voucher.

The following cases will generally entitle you to a voucher:

- A dispute or application regarding a child;
- A financial dispute or application where a dispute or application also exists in respect of a child.

Increase in mediation in the future

Mediation is currently voluntary, however calls have been made to make it compulsory. Jane Robey, CEO of National Family Mediation says: "A MIAM held with only one party is never going to provide a separating couple with information to make an informed decision about whether or not mediation might work for them.

"Those who oppose compulsory family mediation continue to say it is a voluntary process, and that this is one of its strengths. It certainly provides reassurance to participants that they can withdraw at any time and the decisions reached are owned by them and not the mediator. However, when families reflect after a successful mediation, and the money, parenting and property agreements they've managed to reach, the fact that it was voluntary is never mentioned in their positive feedback. You cannot compel people to reach agreement. What you can do is provide the forum for a comprehensive discussion about the areas of disagreement and that mere act is often enough to narrow the chasm between them."

How we can help

If you would like further information on mediation then please contact our expert [family law team](#) either by calling us on 01892 506191 or [get in touch](#) by completing our contact form.

Written by