

# familymediation



FamilyMediationHelpline.co.uk

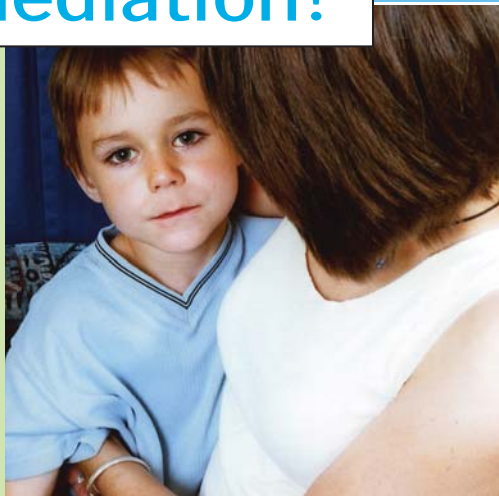
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## What is mediation?

### Sue's Story

“ I'd been with my partner Dave for nearly fifteen years and we had three kids together when we separated. I'd suspected for ages he was having an affair. Then, one night, he finally admitted it. There was a huge scene and Dave walked out.

Over the next few weeks there were loads of arguments, usually over the kids. I was terrified of losing them, so I went to see a solicitor. While I was waiting, I saw a leaflet about “Mediation”. I'd never heard of it before but the solicitor said it was a way for couples who were separating to meet with someone who'd been trained to help, and try and sort out the future between them. I was really doubtful about it. I thought we'd got well beyond the stage of being able to talk. I was also pretty stressed at the thought of having to be in the same room as him. I wasn't sure I was ready to face him yet – I still felt so hurt. But the solicitor said I could meet the mediator on my own first to find out more, so I decided to give it a go. I was really surprised when Dave agreed too.



The meetings were hard at first. Every time one of us said something, the other just jumped on their back about it but the mediator kept reminding us we were doing this for the kids' sake. That really helped. Even though I was angry and upset with Dave for what he'd done to me, I knew deep down he was still a good dad.

It took us six meetings but we got it sorted in the end. The kids live with me and Dave gets to see them two nights a week and every other weekend. We sorted out how to share the rent too, and his regular payments for the kids. It's not always easy but it worked out much better than I ever thought it would. ”

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### Introduction

Splitting up with your partner is a very stressful time. Not only do you have to cope with the pain and upset of separating but, suddenly, you are faced with lots of uncertainty about the future: Who will look after the children? When will I get to see them? What will happen to the family home? What will I live on?

Even after all these things are worked out, changes in your life later on may mean that you need to think about them all over again – as the children get older, perhaps, or if you meet someone new.

And it isn't just you and your ex who are affected by a separation; it can cause problems for other family members too, particularly the kids. But don't forget grandparents, new partners and their families.

No matter what stage of separation you are at, or what the issues are, it's worth thinking about whether mediation might be able to help you and other family members to come to an agreement about how you will deal with life from now on. Our guide explains what family mediation involves, when it might be useful and how you can find out about local providers.



## What is mediation?

Mediation is not about getting back together. It is a chance for couples who are splitting up (or other family members with a dispute) to sit down, together with someone who has been properly trained to help, and make arrangements for the future. You could have been married or living together. You may or may not have children. You may need to work out plans for any number of things, including your children, your money, or your home.

### What the mediator does...

- Meets with you and your ex (either together or separately depending on your circumstances and their style) for an initial meeting. This gives you, your ex and the mediator the chance to work out exactly what issues are at stake and whether you'll both feel safe and comfortable discussing them face-to-face.
- Helps you and your ex to go through those issues, think of your options, decide whether they'd work in practice and come to an agreement about what's best. The mediator is there to make sure that both of you get a chance to put your side of the story, particularly if one of you is better at arguing than the other.
- Gets both of you to fill out forms giving information about your finances. Be aware: you'll have to sign these to confirm that the information is correct.
- Puts together a document at the end of the sessions setting out your agreement in writing.

### What the mediator doesn't do...

- Make the decisions for you: you and your ex are in control.
- Take sides: they are simply there to smooth the progress of your own discussions.

**The number of sessions you need will depend on the number of issues to be decided and how complicated they are. There will usually be 2–6 sessions, each lasting between 1 and 2 hours.**

### Dave's side of the story

"I'd been with Sue for a long time. But since we'd had the kids, it felt like we never had time for each other. I started seeing someone at work but I felt so guilty about it, I eventually told her. We had a huge row and I moved out there and then. That was really stupid. I couldn't bear not seeing the kids and every time I called to speak to them, she just slammed the phone down.

A few weeks later, I got a call out of the blue from a mediator. He said that Sue had been in touch with him and wanted to try mediation. I hadn't got a clue what he was talking about and, to be honest, I was a bit suspicious. But he said that, as Sue was on legal aid, I could have a meeting with him for free. In the end, I decided I hadn't really got anything to lose, so I went along and he told me all about it. After that, I was quite up for it – at least this way we'd actually get to talk.

Ten days later, we had the first session. That was tough. But the mediator was really helpful, and kept reminding us that we needed to sort things out for the kids. By the end of the session, we'd agreed that I could see the kids for bedtimes on a couple of evenings, and every other weekend. It was such a relief! We agreed to have another session three weeks later to see how things were going and to start sorting out money and the flat. In the meantime we had to fill out some forms about our incomes and our spending and get some legal advice.

I never thought we'd be able to sit down and talk, but the mediator helped us realise that even though we're not together anymore, we'll go on being parents for ever."



**THE MEDIATOR...**

## What you and your ex should do...

- Be open and honest about everything from the start, especially your finances. This gives you the best chance possible of reaching a fair and workable agreement. Don't worry, mediation is confidential. The mediator cannot pass on any of the information you give without your permission. Be aware of two exceptions:
  - Information about a risk of harm to anyone, especially a child, will need to be reported.
  - The financial information you have provided can be used later on by solicitors in negotiations, or in court if the mediation doesn't work out.
- Get some legal advice to find out what your rights are and what's best for you, especially when you are getting to an agreement. Mediation works best if you both make informed decisions.
- If your circumstances change later down the line, causing new problems, see if you can adapt your agreement: it's not set in stone!

**The legal aid rules say that you have to consider trying mediation before you can get legal aid (to pay for a solicitor to negotiate an agreement for you, or to represent you in court where there are disagreements over money or the children). This doesn't mean that you have to mediate but it does mean that you have to find out about it. In practice, if you have gone straight to a solicitor, they will arrange a meeting for you with a mediator to talk about whether mediation is right for you.**

## Where does mediation fit in?

**Relationships end for various reasons and splitting up can affect people in lots of different ways. Some manage to remain the best of friends and are able to sort everything out for themselves. Some can't bear to go anywhere near each other ever again. Some have violent partners. For them, getting solicitors to negotiate for them, or even going to court, may be the safer option.**

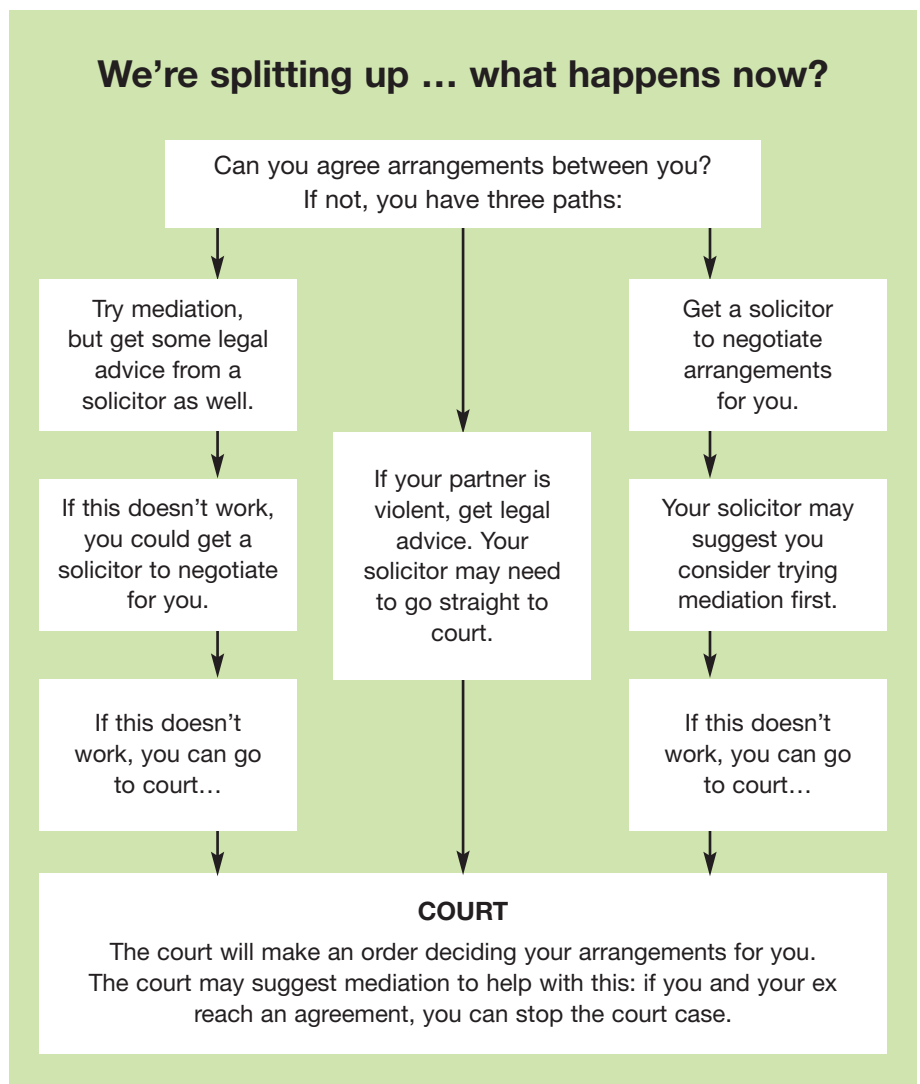
Mediation can be very useful if you fall somewhere in the middle. It gives you a chance to take control of making arrangements for the future yourselves. But you'll have the support of a mediator, who'll help you stay focused and make sure you both get a chance to put your point of view.

Be aware: if you're married, you'll still need to apply to court to get the

divorce itself. This can be a fairly cheap and simple process if you have sorted out the financial issues through mediation first. Your solicitor can then prepare a consent order, based on your agreement, to go to the court for approval.

If mediation isn't for you, or you try it, but don't manage to reach an agreement, you could get a solicitor to negotiate for you instead. They will contact your ex or your ex's solicitor to try and reach the best agreement they can. All you need to do is explain to your solicitor what you want. They will use their knowledge of the law and their experience to tell you whether this is realistic, which will help you to decide your bottom line.

If this doesn't work, the court may have to make the decisions for you.



# How much does it cost?

It's really hard to work out how much it's all going to cost at the start. Most mediators are rather shy of giving information about their charges on websites and leaflets. But they should always give you this information at the initial meeting. The total cost depends on lots of different things: the number of issues to be decided, how complicated they are, how long it takes you to reach an agreement, who you go to, and whether you can get legal aid.

## If you can get legal aid

You may be able to get legal aid to cover your costs if you are on a low income and only have limited savings. Ask your solicitor or mediator about it, or check online by using the CLS Direct Legal Aid Calculator at: [www.clsdirect.org.uk/legalhelp/calculator.jsp](http://www.clsdirect.org.uk/legalhelp/calculator.jsp). If you can get legal aid, make sure you choose a mediator that will offer it: not all of them do.

If you are on legal aid, it is definitely cheaper to use mediation than to get a solicitor to negotiate for you. Legal aid for mediation (and the legal advice you get alongside it) does not need to be paid back. But legal aid to pay for a solicitor to negotiate for you or take the matter to court may have to be.

## If you're paying for it yourself

Here are some ballpark figures:

- If you need to agree arrangements about your children, it will probably take 2–3 sessions. In total, this might cost you between £100 and £450 per person.
- If you need to resolve a range of issues about your children, your home and your money, it will probably take up to 6 sessions. In total, this might cost you between £700 and £1000 per person.

Don't be afraid to ask about charges:

- Always ask whether the initial meeting is free – some services charge for this, some don't. It will always be free if one or both of you are on legal aid.
- Ask whether the charge is per session or per hour, and how long a session lasts.
- Always check whether or not the price includes VAT.
- Ask whether the mediation service has funding to help people on a low income who don't qualify for legal aid.

**Don't forget that you will still have to pay for your own solicitor to advise you as well. This will cost you from £120 to £300 per hour, depending on the experience of the solicitor. Don't be afraid to ask about solicitor charges when you first get in touch.**

If you can manage to reach an agreement through mediation, it's generally much quicker and cheaper than getting a solicitor to do it for you or going to court. But be aware that if you don't manage to reach an agreement through mediation, you'll probably have to ask a solicitor to negotiate for you. You'll have to pay for this on top of the mediation costs. But if you use the financial information that's already been put together and build on any progress you made during mediation, this will reduce solicitor costs.



# Your questions answered: Ask Val...

## I'm terrified of him...

**Q** I lived with my husband for seven years. There were quite a few times when he hit me, but I left when he started on one of the kids. Now I have nothing and the kids are too young for me to go out to work. I want a divorce but I've read that, if I want legal aid, I have to go to mediation. I'm too scared to face him like that. What can I do?

*Jules, Bristol*

**A** If your husband has been violent or bullied you, get legal advice about how best to protect you and your children. Mediation may not be safe or sensible: you might be better off going to court. But if you do want to think about mediation, you can have a meeting with a mediator on your own to talk about your concerns. Remember, no-one can make you go to mediation if you don't want to.

## I can't get over losing him...

**Q** I split up with my partner nearly 6 months ago and I've barely had any contact with him since. He's staying at his mate's flat but every time I try calling, his mate says he's not there. I still love him and I know that if we had time to talk, we could sort things out. A friend of mine suggested we try "mediation". Would this work?

*Rupa, Harrow*

**A** It doesn't sound like mediation is the answer at the moment. Mediation is a way of getting you both to talk about what's going to happen once you've made a decision to separate. If you're still hoping to rescue your relationship, you might be better off talking to a counsellor or therapist, either separately or together, to work through your problems.

## I can't face him in an argument...

**Q** I split up with my ex because he was really pushy unless I let him have his own way. We rent a flat and bought lots of stuff together but every time we try to talk about what to do with it, we just end up shouting. Last week, I had a call from a mediator, who said my ex had been in touch and wanted me to go along to mediation to work it out, but I'm not keen. I don't think I could hold my own in an argument with him. What should I do?

*Mike, Earl's Court*

**A** You don't have to go along if you don't want to. But mediators are trained to make sure that everyone keeps as calm as possible during the sessions and that both of you get a chance to air your views. Even so, if you think you'll end up backing down and agreeing to something you don't want to or you'll both just end up shouting at each other, then you might feel happier if your solicitor negotiated arrangements for you instead.

## I don't know if I can trust her...

**Q** I'm going through mediation with my ex to sort out when I can see my son but I don't trust her to stick to any agreement we make. Is it worth it?

*Huw, Aberystwyth*

**A** The bottom line is: you can't make anyone do anything. If you manage to reach an agreement, the chances are you'll both stick to it because both of you have had a say in the arrangements. If she doesn't stand by it, you could go to court, but bear in mind that it can be hard to enforce family arrangements in court anyway.



**WHAT YOU DON'T WANT TO HAPPEN...  
GET A MEDIATOR IF IT'S DIFFICULT**

## What do I do now?

If you think family mediation could help you to work out the way ahead, give the Family Mediation Helpline a call on:

**0845 60 26 627**

or visit their website at:

**[www.familymediationhelpline.co.uk](http://www.familymediationhelpline.co.uk)**

They can put you in touch with one of your local providers who'll be able to talk you through the process and help you decide whether it's right for your particular situation.



# Jargon buster

The jargon	What it means
All issues mediation (AIM)	Mediation sessions covering problems over children, money and property.
Consent order	Order made by a court making the terms agreed by you and your ex legally binding.
Contact (the new word for “access”)	When and where a child can see the parent they don't live with or another adult (such as a grandparent), or have contact with them in other ways such as phone calls, letters, presents. The arrangements will be set out in a contact order.
Legal Aid	A government scheme to help people with low income and limited savings to pay for legal advice, assistance, mediation and representation.
Residence order	A court order deciding who your child will live with.

**This guide is one of a series produced by Advicenow's Family Mediation campaign.**

The Family Mediation campaign aims to increase awareness and understanding of family mediation during the divorce and separation process and in resolving other family problems.

We provide information and practical help on:

- What is mediation?
- How does it work?
- Is mediation for you?
- How do you make the most of it?

The Family Mediation campaign is funded by the Department for Constitutional Affairs.

**For more information about family mediation, see [www.advicenow.org.uk/familymediation](http://www.advicenow.org.uk/familymediation)**

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**The Family Mediation campaign applies to England & Wales only. The law is complicated and every case is different. Get advice.**

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**To find out about your local family mediation providers, give the Family Mediation Helpline a call on:**

**0845 60 26 627**

**or visit their website at:**

**[www.familymediationhelpline.co.uk](http://www.familymediationhelpline.co.uk)**

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body for UK advice services. ASA members include AdviceUK, Age Concern, Citizens Advice, DIAL UK, Law Centres Federation, Shelter and Youth Access.

ADRnow, run by ASA, provides information about family mediation and other forms of alternative dispute resolution. See [www.adrnow.org.uk](http://www.adrnow.org.uk)

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