



Can Mediation help?

By Philippa Johnson

One of the most difficult things about divorce and separation is the uncertainty and confusion people feel. Mediation can help you work out what your options are. Sometimes none of the options will be especially good ones from your point of view and that can be a difficult and unhappy thing. However, once you know what your real choices are you can start to take control back in your life and decide on the choice that seems to both of you to be the best one for your family overall. Making things better is a good goal.

How does family mediation work?

Mediation is a sort of a structured conversation, in which a professional helps people to discuss difficult things in a safe space. A qualified mediator will keep the discussion focused on the important issues and will encourage you both to think about the future rather than the past. As a family you have probably had a great many difficult conversations over the years, especially recently, and you may be used to conversations that make things worse rather than better. The mediator is there to help you have a very different sort of conversation that will make things better. It often helps to set your own ground rules for the conversation – what is or isn't going to help both of you to talk to one another in a positive way.

What do people talk about in mediation?

- It really helps to go to your first mediation knowing what is important to you. Try to keep an open mind about what the practical solution might look like but identify the questions that you believe need answering. These will be unique to your family, but might include, for example: “how can we protect our children from all the adult stuff?”, “where will we both live?”, “how am I going to pay the bills?”
- You will both have an opportunity to explain what you think the important issues are. It is very important that you both listen carefully to what the other person is saying. In particular you both need to explain to the other person what things are making you anxious about the future – what you are most frightened of happening – and to identify anything that you believe will improve the situation for both of you.
- Try to think about what you would believe would be a good outcome for the family at some time in the future – in six months' time or a year's time or in two years' time. Often, people have remarkably similar ideas about what a good outcome would look like in the future. In all your discussions with your ex-partner keep that good outcome in mind as a goal and try not to do anything that will make that good outcome less likely.

- You may have important questions – the mediator can't give you advice about your individual situation but they can give you information about the way the courts approach divorce and separation and suggest places you can go to find out more. They are there to help you to make decisions, although not to make decisions for you. If you want to understand more about the legal background to divorce, have a look at <https://www.advicenow.org.uk/tags/divorce> which has a collection of useful guides.
- If you have financial issues to discuss, you will need to provide each other with the important financial information so that you can understand what your real financial choices are – you can decide between yourselves that something isn't important to you as a family, but you will need to show each other all the information you have about your income, your property, your savings, investments and pensions and any loans or debts. You can find some useful free advice on how to do this, including a budget planner at <https://www.moneyadvice.service.org.uk/en/articles/how-to-sort-out-your-finances-on-divorce-or-dissolution>.
- You will also need to understand what you spend your money on so that you can work out a budget going forward. The mediator will record all the information provided in a document, which you will sign once it is ready and which both of you can use outside the mediation, including in court.
- If you have children arrangements to discuss, you will need to gather together the important information that impacts on them so that you can understand what your real choices are. If you are feeling overwhelmed, have a look at <https://www.sortingoutseparation.org.uk/children-parenting/parenting-arrangements-children/> which should give you some useful ideas.
- There is an expectation that children aged 10 and above will have an opportunity to talk to a mediator about what they think is important, unless there is a special reason not to send them an invitation. What they think can then be fed into your discussions – you are still the parents and it is your responsibility to make decisions, but knowing what your children think and feel about their situation is likely to help you to make better decisions.

How do we move from talking to making decisions together?

The next stage involves exploring the options that are in practice open to you – these will depend very much on your personal circumstances and what is important to your family. You will probably both find it helps if you have a full and honest conversation about each option, including the ones that you don't like very much. Make sure you think about all of the practical options rather than rejecting or accepting an option quickly.

Talking through the options will often mean going away and finding something out. Sometimes talking through the options will involve inviting someone else into the mediation room, an expert or an adviser. Sometimes talking things through will help you both transform an option from one that really doesn't work for one person to one that works for both of you, by changing one element. Sometimes, understanding why someone doesn't like a particular option helps the other person to come up with a different solution that works better.

A solution will never be forced on you so please don't worry that just discussing an option leaves you vulnerable. Working your way through to a clear understanding of your options isn't easy but there is a clear pathway and once you have started down it, each step will take you closer to your goal.

- Try to identify some independent standards for what is sensible, fair and reasonable – one of the best independent standards is whether or not the solution is reciprocal – would you accept the solution you are suggesting if you were the other person?
- Try to let go of the idea that you have a monopoly on good sense, fairness and reason. Accept responsibility for your own feelings and your own part in the disagreement – no-one is right all the time. Try not to use language that suggests that you understand your family situation or what the children feel and that the other person does not.

- If the conversation is not going well, try not to react. Anything which pushes you back into the old patterns of conversation will probably get in the way of finding a fair solution. Instead ask yourself and the other person what you can do to make things better.