



## Making the right choice

The options available when getting divorced or dissolving a civil partnership or separating



## The breakdown of a relationship and its consequences is never easy

The purpose of this leaflet/presentation is to set out the options available.

Before doing anything else please consider these options and discuss them with your partner and with us.

Every family is different and some of these options may be suitable and some may not.

## Choosing the right option at the very beginning will:

- Save time
- Save money
- Reduce anxiety
- Improve communication
- Enable you to find the best solution for you and your family

## The options

The principle options for couples getting divorced, dissolving a civil partnership or separating are:

- Reaching agreement yourselves
- Reaching agreement through negotiations between solicitors
- Mediation
- Collaboration
- Arbitration
- Going to Court

Sometimes it is sensible to combine one or more of these options.

## Reaching agreement yourselves

Reaching an agreement with your partner, with or without legal advice can have its advantages.

Doing so keeps open communication which can be vital if there are children involved.

### **But:**

- Resolving financial issues is complex especially when dealing with property, pensions, businesses and where there are tax implications
- Solicitors can help you identify options which you might not otherwise realise exist
- Obtaining professional advice from family law practitioners can help focus attention on what is going to be best for the children and what may work best for them

At the very least before making any final decision make sure that you obtain professional legal advice to make sure that what has been agreed is going to be legally binding, nothing has been overlooked and what has been agreed can actually be implemented.

## Lawyer negotiation

Normally both parties will instruct an experienced family law solicitor and many cases are resolved by the solicitors negotiating and reaching agreement on behalf of their clients and avoiding going to Court.

This process is much more likely to be successful if both parties appoint solicitors who are members of [Resolution](#) and who adhere to Resolution's [Code of Practice](#).

# Mediation

## **Family mediators can help resolve issues about:**

- Arrangements for children
- Financial issues

## **About mediation:**

- Mediation is voluntary
- Mediators are impartial
- Mediators cannot give legal advice
- Mediation is confidential
- You remain in charge of the decision making process

A growing number of family mediators are also trained and qualified to work with children directly.

This enables parents to have a better understanding of how their children feel emotionally, what they are thinking and to ensure that the children know that they are being listened to.

Generally, mediation works far better if the parties are supported by specialist family solicitors.

# Collaborative practice

## Collaboration involves:

- Each person having their own solicitors
- Together appointing a family consultant who will be able to deal with emotional issues as they arise and possibly see the children involved as well
- Having a series of meetings to identify the issues and discuss how they might be resolved
- Everyone concerned committing to finding a solution without resulting in Court proceedings
- Inviting other specialists and experts (for example financial advisers) to take part in the process as and when required
- If agreement cannot be reached the solicitors concerned can no longer represent their clients who then need to appoint other solicitors to represent them



# Family arbitration

## Family arbitration can deal with:

- All the financial issues that arise when a relationship breaks down
- Most issues concerning children

## Family arbitration is a direct alternative to the Court process and the advantages of arbitration are:

- Speed: it is far quicker than going to Court
- Confidentiality: the entire process is protected by strict confidentiality
- Cost: even allowing for the fact that the parties have to pay for the arbitration fees, because the process is so much quicker, there is normally a substantial saving in costs
- Flexibility: the arbitrator and the parties have much more flexibility to decide what the issues are and how they are going to be resolved

At the end of an arbitration, the arbitrator issues an Award.

The decisions it contains are equivalent of a Judgment and binding upon the parties and where necessary the Award is turned into a Court order.

More information about arbitration is available from the website of [The Institute of Family Law Arbitrators](#).

## Going to Court

If agreement cannot be reached and if mediation, collaboration and arbitration cannot be agreed or are not appropriate then the remaining choice is to ask a Court to make a decision.

Courts can make decisions about financial issues and about arrangements for children.

In both instances the Court will, after an application is issued, set down a timetable for the exchange of information and evidence.

In both instances there will be a number of Court hearings leading to a Final Hearing where a Judge will make a decision.

Timescales vary between Courts and between different parts of the country. At present, there are lengthy delays and that is unlikely to change.

You will need to discuss with your solicitor how long it will take to get to Court and the substantial costs involved.

While going to Court will result in decisions being made it can prove to be an expensive process and is best seen as a last resort.



## Things to consider when making the right decision for you and your family:

- The safest option for you and your children
- Achieving a solution which is fair
- Avoiding delay
- Keeping legal fees in proportion
- How complicated the financial issues may be
- Remaining in control of what is happening
- Being aware of differences or imbalances in power and understanding



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