



# Help with reaching agreements when a relationship ends

This factsheet is not a comprehensive guide to the law, nor a substitute for legal advice. You should get legal advice before entering into any agreements about the children, property or finances.

Whether you are married or unmarried when your relationship ends, you will need to come to an agreement with your ex-partner about arrangements to do with the children, financial matters and property.

It may be possible, with legal advice, for you to come to an agreement about these matters between yourselves, or with the help of a mediator or solicitor. If you can come to an agreement that is fair to both of you and the children without going to court, it will be quicker, less expensive and easier for everyone involved in the long-term.

## Getting legal advice

Note: Where there is violence or threatened abduction it is essential to involve a solicitor at once. If you qualify, emergency publicly-funded help with legal costs is available, your solicitor will help you make the application.

Before you start negotiation and/or mediation you should see a specialist family law solicitor for general advice about your and your child's legal rights. It may also help to get advice during the process as well so that you know what the possible consequences are of the proposals that are being made. This is not the same as asking a solicitor to act on your behalf or starting legal proceedings.

You should always seek legal advice before entering into an agreement, to make sure it is fair to you and your children. If you don't, it may be difficult to change later on and could end up costing you more financially in the long run.

Contact Resolution (formerly the Solicitors Family Law Association) on 01689 850 227 or see [www.resolution.org.uk](http://www.resolution.org.uk) for details of member solicitors who take a constructive, conciliatory approach to relationship break-ups. If you are applying for help with the costs, make sure the solicitor has a community legal service contract. Contact Community Legal Service Direct on 0845 345 4345 or see [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

## Negotiating with your former partner

Also see Getting legal advice above.

In order for any negotiation to be successful and fair to both of you:

- when trying to reach agreement about contact with the children, be clear about what is in the child's best interests, but also be flexible and willing to compromise;
- both of you need to be realistic about finances and

property – if there are not enough resources to meet everyone's needs, you will need to find a compromise that prioritises the needs of children;

- both of you need to be open and honest when gathering together information about your finances;
- you should have a clear idea about what you want and the options that are available – meeting with a solicitor at least once can help you do this; and
- when an agreement is made, it should be clear, precise and written down (but written agreements should not be signed before you have received proper legal advice). If the written agreement is not clear, or if you or your ex-partner understand the agreement differently, this can cause disputes later on. Also see How can I make an agreement legally binding? on page 2.

If it is not possible for you to come to a fair agreement between yourselves, a mediator may be able to help you.

## Using a mediator to negotiate with your former partner

Note: Mediation is not an alternative to legal advice. An interview with a solicitor before mediation takes place can help you to be clear about your rights and options. You may be able to get publicly-funded help with legal costs to do this.

If it is possible for you and your ex-partner to come to an agreement through mediation, it is likely to be quicker and less expensive than negotiation between solicitors, or for the dispute to be taken to the courts when barrister's fees and other costs may also have to be paid. Reaching agreements through mediation may also help to reduce hostility between you and your ex-partner and help you to refocus more positively on your relationship as parents.

## What is mediation?

This means helping people who are in dispute to exchange information and resolve their differences. An impartial mediator can help you to reach decisions about children, or finances, or both. The mediator will not take sides or tell you what to agree to – they will encourage you both to be open and honest, explore the different options and reach your own informed decisions. You can use mediation even if you have already started court proceedings.

### Who is mediation suitable for?

Mediation depends on two people voluntarily wanting to reach an agreement even though they may hold quite different viewpoints at the start of the process.

In some cases, it will be clear that mediation will not be appropriate. This may be because there is a fear of violence, your ex-partner will not participate or because one of you wouldn't be able to attend the meetings because of where you live or because you have a disability. If mediation is not suitable see Using a solicitor to negotiate with your former partner below.

Note: If you are applying for publicly funded help with legal costs for your solicitor to negotiate on your behalf or represent you in court proceedings, you have to attend an initial meeting to assess whether mediation is suitable unless your application for funding is to do with domestic violence, preventing your ex-partner from disposing of property or if you need emergency representation.

### What happens at the end of mediation?

If you are able to come to agreement through mediation it will be put into writing and you will be advised to take the agreement to your solicitor to check that it is fair and reasonable and is in line with the sort of outcome that a court would order. The court can make the agreement into an order, see How can I make an agreement legally binding? below. This will normally only cover the parts of the agreement to do with finances rather than the arrangements to do with the children.

### What does mediation cost?

Your solicitor or the mediation service you are using will be able to advise you if you are entitled to publicly-funded mediation, which is free.

There are no hard-and-fast rules as to how many mediation sessions a couple need in order to reach an agreement but between three to five is about average, although more or less may be needed. The cost of mediation is likely to vary, and it is very important that you are properly informed about the rates that mediators charge per session. It is also important that you agree in advance how you are to pay for the mediation.

### How to find a mediator

If you are applying for help with legal costs, the mediator must have a contract with the Community Legal Service (CLS). Call CLS Direct on 0845 345 4345 or see [www.clsdirect.org.uk](http://www.clsdirect.org.uk) for details of mediators in your area. The UK College of Family Mediators has a directory of accredited mediators, call 0117 904 7223 or visit [www.ukcfm.co.uk](http://www.ukcfm.co.uk).

If you are a lone parent and would like to find out more about our other services or become a member of One Parent Families for free, call the **Lone Parent Helpline** on **0800 018 5026** for information, free publications and details of other helpful organisations throughout the UK. For 24-hour access to a range of information visit our lone parent helpdesk at [www.oneparentfamilies.org.uk/helpdesk](http://www.oneparentfamilies.org.uk/helpdesk)

### Using a solicitor to negotiate with your former partner

If negotiating with your ex-partner directly and/or using a mediator is not suitable or has failed, you should ask a solicitor to start negotiating for you. You may be able to get publicly-funded help with legal costs to do this, contact Community Legal Service Direct, see Getting legal advice on page 4.

Once you have discussed with your solicitor what your options are and what decision a court might make in your circumstances, your instructions to the solicitor must be clear and precise, otherwise they will not know what can be agreed on your behalf.

See Getting legal advice on page 1 for details of Resolution (the new name for the Solicitors Family Law Association) who can help you find 'collaborative lawyers' who aim to resolve issues by negotiation in face-to-face meetings or meetings where you are present but not necessarily in the same room as your former partner and their solicitor.

Sometimes, even instructing a solicitor to negotiate may not always produce an agreement, but the solicitor will be able to advise you when to start legal proceedings for a court to decide on the issues, and what this could involve in terms of time and costs.

### How can I make an agreement legally binding?

If you have come to an agreement about financial matters either through mediation or negotiation, you can apply to the court to have the agreement made into a Consent Order. The court will look at details of both of your income and assets and if they consider the agreement you have made to be fair and reasonable, they will make it into an order. This means that the agreement you have come to can be enforced by the court.

You will need to get advice from your solicitor before the agreement is drawn up and again before you sign it to make sure you understand all its terms and that it is fair to you and your children.

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