

Process Options

More often than not within divorce proceedings, there will be important matters that need to be resolved. This could relate to finances or arrangements for children. It is a common misconception that the only option available to you is to go down the traditional 'court route' when it comes to reaching an agreement on these issues.

This guide has been produced to highlight the other options available to you, many of which are a great deal more cost effective and less stressful than making an application to the court. Your individual circumstances will determine which of these options will be best for you.

What other options are available to me?

- a. Mediation
- b. Collaborative Law
- c. DIY – reaching agreement between yourselves
- d. Negotiations conducted through solicitors

a) Mediation

Family mediation is a voluntary scheme in which a mediator assists you in reaching your own informed decisions about some or all of the matters in issue between you. The mediator is a neutral person who is able to provide information to you regarding your options.

A mediator does not attempt to prevent you splitting up. The main aim of the process is to allow you to reach agreements over the difficult issues which arise between separating couples. The process will ensure that any children's needs are given priority.

If you disagree over money and property issues, a mediator can help you understand your financial position in order to find a way forward. They will help you look at all the options and try to come to an agreement that suits you both.

A mediator will not give you legal advice. However, they can provide information relating to the process of divorce and the types of orders that Courts can make. You will both need to instruct your own solicitors so that you are appropriately advised during the process.

Once you have proposals you both find acceptable the mediator will prepare a summary which will be sent to each of you to discuss with your lawyer. After you have both received legal advice the lawyers will convert the summary into a legally binding document and carry out any necessary implementation.

Why should I think about Mediation?

Mediation can be a highly effective way of resolving your dispute; it is often less stressful and can result in an effective and amicable agreement. It is confidential and each separate session will last around one

and a half hours.

Mediation can be covered under public funding if you are eligible. If you are not in receipt of this, it is charged at an hourly rate.

If you would like more information on Mediation please do not hesitate to speak to Helen Derry or John Mitchell, or alternatively you can visit our website www.sillslegal.co.uk

b) Collaborative Law

Collaborative Law is a term that is used to describe a process whereby both you, your partner, and your respective solicitors pledge to work together to negotiate an agreement without going to court. Collaborative Law represents a new way for divorcing or separating couples to work together as a team alongside trained professionals to resolve disputes without going to court. It involves a series of meetings attended by all parties. Sometimes only a couple of meetings are needed, on other occasions four or five.

The emphasis in this process is to negotiate a mutually acceptable settlement, engage in open and honest communication and information sharing, and attempt to come to an agreement over the issues that are of key importance to both of you. A major advantage of this process is that your Collaborative Lawyer will not only help you negotiate and advise if an agreement is viable but will draft the relevant papers to be lodged at the court.

c) DIY

It may well be that you, your partner, husband, or wife, are on good terms after the breakdown of the relationship. If this is the case you may well feel able to sit down and discuss matters directly between the two of you. It may also be the case that your financial situation is fairly straightforward. We do, however, recommend that whilst you negotiate with your partner that you do have professional support in the background to ensure that you understand your rights and the full implications of any agreements and decisions that you take.

Any agreement that you reach could then be incorporated into a written agreement by the solicitors involved, and would then be approved by the court.

d) Negotiations conducted through solicitors

Sadly the reality of the situation is that you may not feel able to sit down with your partner face to face. There may also be matters outstanding that you do not feel able to deal with independently. If this is the case then it is possible for your solicitors to carry out negotiations on your behalf.

The advantage of this route is that in addition to cutting out the stress of having to sit down with each other under difficult circumstances, you can benefit from professional advice at every stage of the negotiation process. We can advise on the pros and cons of the proposals being put forward by you and those being put forward by your partner.

What if we are unable to reach an agreement by any of the above methods?

If you and your partner cannot reach an agreement through any of the above then it remains open to you to make an application to the court and we can provide you with information on this.

Conclusion

There are many avenues to explore before an application to court is made and we would strongly advise you to investigate them carefully.

Each family is different but some of the common factors that influence people when deciding how to get a divorce or separation are:

- You want to keep costs down.
- You don't want a lengthy court battle.
- You want to understand and influence what is happening.
- Your financial affairs are complicated or you simply don't understand them.
- You feel that there is a power imbalance because of your partner's powerful personality, knowledge of finances or closeness to the children or other family members, and you don't want to deal with matters on your own.

Think through the issues that are important to you and your family and talk them through with your lawyer.

For more information please contact Helen Derry on 01522 542211 or visit our website:
www.sillslegal.co.uk.