

## A GUIDE TO MEDIATION

### 1 What is Mediation?

Family Mediation is less stressful, quicker and more cost effective than a long drawn out of Court application. Mediation is confidential and puts you in control of the time frame, agenda and outcome.

The Mediator helps you find solutions that work for you and your family. Mediation works because we can motivate both parties to engage in the process of resolving the issues.

We recommend that each participant has their own independent legal advice and support to prepare for the Mediation meetings.

### 2 The Mediation Process and Procedure

1. The Mediator will explain the process and you can decide if you are willing to mediate. This will be in a **Mediation Information and Assessment Meeting** for about an hour which will cost £200 plus VAT per meeting. The meeting can be attended separately or together.
2. Both participants must be willing to Mediate.
3. If both participants wish to go ahead with Mediation, the **Agreement to Mediate**, the **Mediation Information Form** and **Terms of Business** will be emailed or posted to each participant to read before the First Mediation Meeting.
4. Payment on account will be requested from each partner 5 days in advance of the first Mediation Meeting of £300 each or £600 in total towards the costs of the first meeting, preparation and paperwork. Identification documentation: passport or photo

driving licence and 2 bills or bank statements less than 3 months old to verify the address will be copied prior to the First Mediation Meeting.

5. Each participant will complete the **Mediation Information Form** bringing this to the First Mediation Meeting where each partner will individually see the Mediator briefly before the Mediation session starts.
6. The **First Mediation Meeting** will then proceed with a discussion of and signature of the Agreement to Mediate, which we will provide, if you wish to mediate. The issues each participant wishes to discuss can be identified and an Agenda agreed. **A Mediation Summary** can be prepared after each meeting and sent to the participants and their solicitors, if they wish.
7. After the First Mediation Meeting and subsequent meetings, a bill will be prepared for the work undertaken. The £600 paid on account of mediation costs will be deducted, with either a credit held or a balance due. A further payment from each participant of £300 will be requested 5 days in advance of the next mediation meeting.
8. Further Mediation sessions will be arranged to discuss the practical, legal, financial and emotional problems associated with Separation, Divorce and dissolution of Civil Partnership, the children and any parenting issues or any other matters decided by the participants.
9. Mediation sessions usually last for one and a half hours. The number of sessions required depends on the nature and complexity of the issues to be mediated.
10. There is no correspondence between the couple and the Mediator except for administrative matters. The Mediators role is managing the Mediation process, providing information, assisting the participants to listen, have their say, to formulate Goals and Solutions.
11. When the Mediation is concluded, the Mediator will prepare a **Memorandum of Understanding** which is a confidential, Without Prejudice document upon which each participant can seek legal advice and consider making into a binding agreement or order of the Court by consent. If the Memorandum of Understanding is about financial issues the Mediator will prepare an **Open Statement of Financial Information** which is an open document.

### **3 What Happens if the Mediation Breaks Down?**

If the Mediation breaks down the Mediator can complete and sign your application to the Court to enable you to proceed at Court. Some people are uncertain whether Mediation is for them and may organise a Mediation Information and Assessment Meeting before deciding to mediate or make an application to the Court. Any Financial Information provided can be

used in the new process but discussions are confidential and cannot be used other than discussing with your solicitor.

#### **4 Mediation Information and Assessment Meetings (MIAMS)**

From April 2014 with the introduction of The Children and Families Act 2014 Applicants wishing to make an Application in relevant Family Proceedings must provide confirmation that they have attended a Mediation Information and Assessment Meeting or are exempt from doing so.

The Assessment Meeting will cover:

- Eligibility for Public Funding. Please note Public Funding is not available from Stone Rowe Brewer LLP although this is still available with other Mediation Agencies subject to eligibility.

**Legal Aid Eligibility:** <https://www.gov.uk/check-legal-aid>

**Find a Legal Aid Mediator or Lawyer:** <http://find-legal-advice.justice.gov.uk/>

**Help from the Citizens Advice Bureau:** <http://www.adviceguide.org.uk/>

- Information on Family Mediation and other alternative Dispute Resolutions such as the **Collaborative Process**.

Leaflet: **“Getting Started”** is attached.

- Suitability for Mediation.
- Willingness to Mediate.

After the MIAMS Meeting with you and the other party, held either individually or together, as you wish, you will either proceed with the Mediation, signing an Agreement to Mediate or if Mediation cannot take place the signed **Application** or **FM1** will be provided to enable the Applicant to issue Court Proceedings.

#### **5 What can you mediate?**

The Mediation process can be used by people to discuss any issues ranging from their children and Parenting Plans and all parenting issues, finances on Separation, Divorce or dissolution of Civil Partnership, Living Together Agreements, Pre-Marital or Pre-Civil Contract Agreements, disputes between family members, including Inheritance Issues, co-workers or neighbours. Mediation is a process that can be used by two people or groups of people with different views on an issue, to reach an understanding.

## 6 Preparation for Mediation and The Family Consultant

To make the most progress in mediation we recommend that both participants use a Family Consultant to prepare themselves for the mediation. A Family Consultant is trained in reducing conflict, managing raw unhelpful emotions and improving communication between the individual, their partner, mediator and lawyer. Good preparation improves the chances of the participants reaching a settlement more quickly. There are benefits for future communication and parenting. **Family Consultants** indicate the main skills to learn and use are:

**Calm & Controlled:** Learning this skill can help you stay calm when your partner is talking, emailing or texting. It will help you stay reasonable and focused on solutions.

**Flexible thinking:** Will help resolve matters in a way that works for all the family, using and testing potential solutions.

**Effective Communication:** Demonstrating how to communicate so you don't make the other person defensive can be really helpful. It will increase listening skills.

**Observe your actions, verbal and physical:** This helps you remember to use the skills during critical moments and takes you from "knowing" to "doing".

**Family Consultants** can be found on [www.thamesidecollablaw.co.uk](http://www.thamesidecollablaw.co.uk)

## 8 The Mediator's Role

Whilst it is helpful to develop and use the mediation skills, these are areas in which the Mediator will assist the participants.

It is part of the Mediator's role to manage the process and support the participants by:

- Setting an agenda, dealing with financial disclosure and managing the mediation process.
- Helping both participants listen and have their chance to speak.
- Summarising, clarifying, testing and exploring options in a flexible, problem solving way.
- Helping the participants communicate in a respectful way.
- Providing legal and practical information when needed.
- Highlighting what legal advice should be sought from respective solicitors.
- Managing Next Steps, to progress mediation.
- Providing Mediation Summaries to assist if required by the participants.

Once an outline agreement is reached between the participants the Mediator will prepare the **Memorandum of Understanding** and the **Open Statement of Financial Information**.

**Please be aware that the **Memorandum of Understanding** is not a binding agreement. It is a confidential, without prejudice document and cannot be shown to the court if the situation becomes difficult in the future.**

The participants need to take legal advice and make the **Memorandum of Understanding** into a legally binding agreement with the help of solicitors or the courts with either a **Financial Consent Order** or **Child Arrangements Order**. Or if the participants prefer an agreement they can refer to and clarifies their agreement a **Separation Agreement** or **Parenting Plan**.

## **7 Cost of Mediation at SRB**

**Mediation Meeting:** 1½ hour meeting: £200 per partner or £400 total fee including VAT

**Hourly Rate for longer Meetings or preparation:** £220 per hour plus VAT.

The **Memorandum of Understanding** and **Open Statement of Financial Information** are likely to cost between £440 to £880 plus VAT, dependant on the complexity, for Finances.

A **Memorandum of Understanding** for Children issues is likely to cost between £220 and £660 plus VAT, dependant on complexity.

## **8 Legal Advice and Solicitors Costs**

In addition to the cost of Mediation at SRB there will be the cost of independent legal advice for each participant throughout the process and to implement any Memorandum of Understanding that the participants wish to conclude with an Agreement or Consent Order at Court.

## **9 Options Information Meeting**

If there is any uncertainty about the best process to use, the couple can either individually or together have a fixed fee meeting to review the best method of resolution with Tanja Williamson: [t.williamson@srb.co.uk](mailto:t.williamson@srb.co.uk)

## **10 Starting Mediation with Stone Rowe Brewer LLP**

Please contact a member of the Family Team to get started with your Mediation:

Lisa Broddle: [l.broddle@srb.co.uk](mailto:l.broddle@srb.co.uk)

Tanja Williamson: [t.williamson@srb.co.uk](mailto:t.williamson@srb.co.uk)

Family Team: [familyteam@srb.co.uk](mailto:familyteam@srb.co.uk)

## 11. Stone Rowe Brewer LLP as Your Family Lawyer: Mediation Another Mediator

If you have instructed Stone Rowe Brewer as your Family Lawyer you will need to engage a Mediator from a separate organisation.

We attach details of some local Mediators for your information. You can contact the Mediators direct or we can do so for you. Please let us know your preference.

**Find a Mediator:** <http://www.familymediationcouncil.org.uk/find-local-mediator/>

**Lisa Broddle**, [l.broddle@srb.co.uk](mailto:l.broddle@srb.co.uk)

Partner, Solicitor, Family and Collaborative Lawyer, Family Mediator

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