

# A Guide to Mediation

## 1 What is Mediation?

Family Mediation helps you talk to your former Partner to find solutions together and is less stressful, quicker and more cost effective than a long drawn out Court Application.

Mediation is confidential and puts you in control of the time frame, agenda and outcome.

The Mediator helps you reach an understanding that works for you and your family.

Mediation works because we can motivate both parties to engage in the process of resolving the issues.

## 2 Mediation Information and Assessment Meeting (MIAM)

The **Mediation Information and Assessment Meeting** will be for about an hour and will cost £240 plus VAT for an individual meeting or £130 plus VAT per person for a joint meeting and Identity Search fee of £7.20 per person per search. If you choose a joint meeting I will need some private time with each of you to ensure there are no safeguarding issues. 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 **MIAM**.

The **Mediation Information and Assessment Meeting** will cover:

- Your situation and the things you would like to discuss with your former Partner in Mediation. We will look at your completed **Mediation Preliminary Information Form**.
- 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 your former Partner, held either individually or together, as you wish, you can proceed with the Mediation, signing an **Agreement to Mediate** or this can be sent to you in readiness for the next meeting.

If Mediation cannot take place the signed **Application** or **FM1** will be provided to enable the Applicant to issue Court Proceedings. 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.

### 3 Mediation Process, Procedure, Financial Information and Costs

1. If both participants wish to go ahead with Mediation, the **Agreement to Mediate** will be given to you in the MIAM or emailed to each participant to read before the first Mediation Meeting.
2. **Independent legal advice for each participant should be taken before, during and after mediation.**
3. Payment on account will be requested from each partner 5 days in advance of the first Mediation Meeting of £250 each or £500 in total towards the costs of the first meeting, preparation and paperwork.
4. If you need to talk about finances, whatever process you use to resolve these, there will need to be financial disclosure so that you know what you are talking about and what options are possible. In Mediation we usually use the **Form E** and **Schedule of Expenditure** which can be given to you at the **MIAM** if you would like to attend the first Joint Mediation Meeting with the completed forms and documents to exchange and discuss after the **Agreement to Mediate** has been signed. Please note that financial information provided is on an open basis and can be used or referred to in other process' whilst the content of the discussions in mediation are without prejudice, privileged and confidential.
5. The Mediator may see each participant briefly before the Mediation session starts. The first **Mediation Meeting** will then proceed with a discussion of and signature of the Agreement to Mediate; discussion of 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 required.
5. After each Mediation Meeting a bill will be prepared for the work undertaken. The £500 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 £250 will be requested 5 days in advance of the next Mediation Meeting.
6. 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 the participants wish to discuss.
7. 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.

8. 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 and reach an understanding.
9. 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.

## 4 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.

## 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)

## 7 The Mediator's Role

Whilst it is helpful to develop and use the mediation skills set out above, 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 understanding 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**.

## 8 Cost of Mediation at SRB

**Hourly Rate for Meetings or Preparation:** £280 per hour plus VAT (£140 per hour plus VAT per person).

**Mediation Meeting**, if a 1½ hour meeting: £210 plus VAT per person.

**Most people need 3 to 5 Mediation Meetings** but possibly more if discussing all arrangements for children and finances or a complicated situation or difficulties in finding a possible solution.

The **Memorandum of Understanding** and **Open Statement of Financial Information** are likely to take 2 to 6 hours to prepare, dependant on the complexity, for Finances.

(Costs Estimate £280 to £840 plus VAT per person)

A **Memorandum of Understanding** for Children issues is likely to take 2 to 5 hours to prepare, dependant on complexity.

(Costs Estimate £280 to £700 plus VAT per person)

## 9 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.

## 10 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 a member of the Family Team:

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

## 11 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)

Annie Tanielian: [a.tanielian@srb.co.uk](mailto:a.tanielian@srb.co.uk)

Michelle Robinson [m.robinson@srb.co.uk](mailto:m.robinson@srb.co.uk)

Faiza Batth: [f.batth@srb.co.uk](mailto:f.batth@srb.co.uk)

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

## 12. Stone Rowe Brewer LLP as Your Family Lawyer: Mediation with another Mediator

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

**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, Accredited Family Mediator

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