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# Myerson **Family**

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**Our guide to alternative dispute resolution**

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# Welcome

We understand the complexities of modern life and, therefore, everything we do is ultimately about you, and it is important you get to know the team that will be working with you every step of the way. It's a deep source of satisfaction that so many clients choose Myerson as their trusted adviser.

## Why Myerson?

Our highly experienced and discreet family lawyers, provide clear and supportive legal advice, tailored towards your individual family needs.

As a Top 200 UK Law Firm, we are also proud to be ranked as '**Top Tier**' in the prestigious international directory **The Legal 500**, and commended by The Times '**Best Law Firms 2023**'. This means you can be certain that you will be receiving the highest quality legal advice.

Being a full-service law firm means we are well placed to provide wide-ranging, tailored legal advice to meet your individual needs. We work closely with other departments internally including Real Estate, Corporate, Commercial and Private Wealth Lawyers to ensure that your needs are protected comprehensively.

You can find out more about our **Family Team** by clicking [here](#).



# Alternative Dispute Resolution

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## What is family mediation?

Mediation is a method of dispute resolution where an accredited family mediator will facilitate discussions between you and your ex-partner about how to resolve practical and legal arrangements on separation. Generally, mediation takes place as a three-way meeting between the parties and the mediator. Sometimes, IFAs, accountants, counsellors or solicitors may attend the mediation sessions.

Mediation is effective at:

- Promoting communication.
- Ascertaining the wishes and feelings of any child of the family.
- Obtaining financial disclosure.
- Reaching your own settlement which feels right for you and your family.
- Reaching terms cost-effectively and efficiently
- Preserves the parties' ongoing relationship as parents.
- Encourages cooperation between the parties.
- It is a fixed-fee - the sessions usually run for 90 minutes and each party pays a share of the cost.

## Can I issue court proceedings without attending mediation?

You will need to attend a mediation information assessment meeting (MIAM) before issuing court proceedings. You will need to attend a MIAM alone with a mediator to ascertain whether mediation is suitable.



If the mediator does not consider mediation suitable, or you are unwilling to engage in mediation with your former partner, the mediator will provide you with a certificate to issue court proceedings.

Mediation would not be suitable if there are issues of domestic abuse, if a child is at risk, or if it is imperative to issuing court proceedings to protect your position on an urgent basis.

All parties are advised to consider mediation at the outset of proceedings, and we can recommend accredited mediators in our area who offer sessions for a fixed fee. Mediation can take place virtually, which can suit those who are anxious about face to face contact with an ex-partner. You can also elect to sit in a different room to your partner if this would make you feel more comfortable.

A mediator will assist you in working out the best options for settlement. However, the mediator must remain neutral and cannot advise you on your best option for you. You may need to consult your solicitor to advise you on the best outcome for you or to assist you drafting a court order to submit to the court following the conclusion of the mediation process.

All financial documentation revealed in the mediation process can be shared with your solicitor.

All negotiations in mediation are “Without Prejudice” (these are secret and confidential and cannot be relied upon unless accepted) therefore it is advisable to obtain your own legal advice before making or accepting any without prejudice proposals in mediation. We recommend the following accredited mediators in this area:

- Marcia Lister on 0161 425 3940 or [click here](#).
- Maura McKibbin on 07515 809552 or [click here](#).
- Find a family mediator via the Family Mediation Council by [clicking here](#).



# What is arbitration?

Arbitration is a way to obtain a final adjudication on financial or children issues without having to go through the expense and delay caused by protracted court litigation.

The parties hire an experienced family judge to hear their case and deliver a decision which will be incorporated into a binding court order. Arbitration is a versatile process and you can elect to arbitrate the entirety of your case or it can be used just to determine a specific issue.

The process is much quicker than the court system, and a decision on your case can be achieved in just a few weeks. Although you must pay a fee for arbitration, it is almost always more cost-effective than going through lengthy litigation. Arbitrators are experienced family law practitioners, and you can select an arbitrator who is an expert on the issues in your case, and who is affordable to you.

Arbitration does not take place at Court. You can choose your venue, which might be at your solicitor's firm, or at a barrister's chambers.

## What are the advantages of arbitration?

- You achieve a swifter conclusion compared to going through the court process.
- You can agree on the issues to be determined.
- The outcome is confidential and cannot be publicised which encourages anonymity.
- You have a dedicated family judge for the duration of your hearing. A lot of judges in the Family Court have very little experience in family law.
- The arbitration venue can be agreed and provide more conducive surroundings to promote settlement discussions.
- You are guaranteed to have a case which starts and ends within the time frame selected.



# How do I appoint an arbitrator?

You can find a list of arbitrators at the Institute of Family Law Arbitrators. You will need to agree to appoint an arbitrator with your former partner. If you cannot agree on an arbitrator, the Institute of Family Law Arbitrators can select one for you.

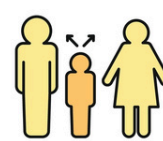
You will need to complete an ARB1FS Form (for financial matters) and an ARB1CS (for children matters) available at [www.ifla.org.uk](http://www.ifla.org.uk).

Once you have agreed on terms with the arbitrator, you are each bound into the arbitration process and cannot decide to leave the process unless your ex-partner consents. This avoids forum shopping and encourages the parties to focus on achieving a swift solution.

The arbitrator will determine whether a case management conference should be held prior to the arbitration to ascertain what evidence, if any, is required before the case can be heard.

An arbitration hearing will follow the usual format of a final hearing in court. Both parties will be given the opportunity of presenting their case and will need to give evidence on oath and may need to be cross-examined by the other party and vice versa.

Once the arbitrator has heard all the evidence and each party has been given an opportunity to summarise their case, the arbitrator will either give his decision on the day or may deliver a decision in writing. Unless the arbitrator has made an error in law, the parties are bound to submit a draft consent order to court so that the arbitrator's decision is embodied into a legally binding court order.





# What is private financial dispute resolution?

A Private FDR can be used effectively within contested financial remedy proceedings to achieve a swifter settlement rather than having to wait for either a court appointed FDR or a court appointed final hearing.

## What are the advantages of private financial dispute resolution?

- The Family Courts are struggling to process all applications. The parties can nominate a solicitor, retired judge or a barrister to act as a Private FDR judge for the day. The judge will be an experienced family judge who has read the case and will dedicate himself to try to resolve issues between the parties on the day. At court, the family judge may have limited experience of family law issues and may not have time to read all the papers and will have to juggle competing cases listed on the same day.
- The Private FDR can take place at any suitable venue which is more conducive towards promoting settlement discussions.
- It is more likely to settle quicker than waiting for a court appointed FDR.

## What are the disadvantages of private financial dispute resolution?

- A Private FDR judge cannot impose a judgement on the parties. He can only try to influence the parties by giving his view as to what he would decide if he were being asked to adjudicate the matter that day.



- The parties would need to pay for a Private FDR judge, whereas the parties do not have to pay for a judge at a court appointed FDR.
- If the matter does not settle at a Private FDR, the parties would then have to continue with the court process, with the attendance costs and delay involved with that.

## What is the collaboration process?

It is an option available to resolve finances or children issues outside the court process. Each party will appoint a collaboratively trained solicitor to attend fourway collaborative meetings to negotiate terms of settlement.

## What are the advantages of the collaboration process?

- The parties and their solicitors commit to resolving matters out of court.
- The process encourages cooperation and communication between the parties.
- The client is not left alone, like in the mediation process. His solicitor will attend every meeting and will support and advise him throughout.
- Third parties such as accountants, counsellors, IFAs and pension advisers can attend meetings to assist the parties to achieve a settlement.
- You do not have to attend court at all. Once a settlement is achieved, the solicitors can draft the order to be submitted for court approval.
- The collaborative process is comparatively less expensive than pursuing court litigation.
- A solution will be found quicker than waiting for court litigation to conclude.
- There is a greater emphasis on face-to-face meetings rather than communication in correspondence.
- Collaborative solicitors usually work for a fixed fee.





# What are the disadvantages of the collaboration process?

- If you sign a Participation Agreement with your solicitor and the collaborative process breaks down, you will not be able to retain your solicitor. You will then have to appoint a new solicitor and issue court proceedings or adopt another alternative dispute resolution process. However, sometimes, it may be possible to negotiate in a “collaborativelight way.” This means that you do not sign a Participation Agreement. If the negotiations break down, you can retain your solicitor and issue proceedings at court or use an alternative dispute resolution process to resolve matters.
- The process is not for everyone. Some clients find the stress of face to face meetings overwhelming and are much better at processing information given to them in writing.
- It is difficult to analyse at the outset whether the collaborative process is suitable for the case. A lot of assumptions need to be made that the parties will negotiate in a transparent way and make comprehensive disclose about the extent of their financial assets. Some clients are attracted to the collaborative process because they wish to try to hide assets or conceal the extent of their assets and they consider the process to be not as thorough a forensic examination of financial assets as going through the court system. If the process fails, for this reason, both parties would have to sack their lawyer and appoint new ones and start the process again at the beginning either by issuing court proceedings or trying another alternative dispute resolution process.
- It is considerably more expensive than mediation but less expensive to court proceedings.



# You're in safe hands!

If you would like further information about how we can help you with **alternative dispute resolution**, or if you have any questions, please don't hesitate to contact a member of our **Family Law Team** today.

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Call: 0161 941 4000

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