

Divorce and separation

Choosing the right
process for you

Divorce, the dissolution of a civil partnership or separation can often lead to conflict and heartache. Having the right professional advice and support can make all the difference.

This leaflet will help you:

- find out about the different ways in which your divorce or separation can be handled
- find the right lawyer to help sort out issues such as housing, finances and care of children

Choosing the right lawyer

Resolution is a group of 6,500 family law professionals who are committed to easing the pain and financial cost of family breakdown.

Resolution lawyers are family law specialists, who follow the Resolution Code of Practice, so you can be confident that you'll receive advice that takes into account the needs of the whole family – and in particular the needs of any children.

Many Resolution lawyers offer a free or fixed fee initial meeting to discuss your individual situation, how they can help you and which processes are right for you and your family.

Most of all, they will do everything they can to help you reach a fair outcome as quickly and cost-effectively as possible. In the vast majority of cases handled by Resolution lawyers, agreements are reached without the need for costly and stressful court battles.

What are your options?

The main choices for couples getting a divorce or separating are:

- DIY – reaching an agreement between yourselves
- lawyers negotiating on your behalf
- mediation
- collaborative practice
- arbitration
- going to court.

Each family is different. Take time to think through your options and do so with professional advice and guidance. Your individual circumstances will determine which of these options will be best for you and your family. Choosing the right process in the beginning could save you time, money and anguish in the long term. Parenting information is also available to support you, whichever process you choose.

You can choose to use a combination of two or more of the above processes if that is appropriate for your circumstances.

Legal aid is available for some people, subject to certain criteria, to assist with resolving your issues on separation or divorce. You can speak to a Resolution member to find out if you qualify, and can also find out more here: www.gov.uk/legal-aid/overview

DIY – reaching an agreement between yourselves

Negotiating your own agreement, with or without professional support, can be the cheapest way to a settlement and at first glance can seem the easiest. However, it can be a complex process with many aspects you and your partner will need to consider, and so it is not suitable for everyone.

It may work if you and your partner have mutually agreed to separate or divorce, remain on good terms, communicate well with each other, and trust each other sufficiently to agree on how to share money and property, and arrangements for your children.

You may find it helpful to have a 'safety check' meeting, with professional legal advice, at the beginning and throughout this process to ensure that you understand your rights and the full implications of any agreements and decisions that you make, and to ensure they are legally binding.

Resolution members will provide a tailored approach and can provide you with support as and when you ask for it, charging only for time they are involved.



Mediators are neutral and will not take sides.

Mediation and MIAMs

Mediators are trained to help resolve disputes over all issues faced by divorcing and separating couples, or specific issues such as arrangements for any children. Your lawyer may suggest mediation and refer you. A mediator will meet with you and your partner together and will identify those issues you can't agree on and help you to try and reach agreement.

Mediators are neutral and are there to manage the mediation process and help with the exchange of information. The process works best if you instruct a Resolution lawyer to provide independent legal advice alongside the mediation process. The mediator will guide you as to when this should happen. Resolution trained mediators can provide general legal information to you both within the mediation if this is appropriate.

Some of our mediators are also qualified to work with children in mediation.

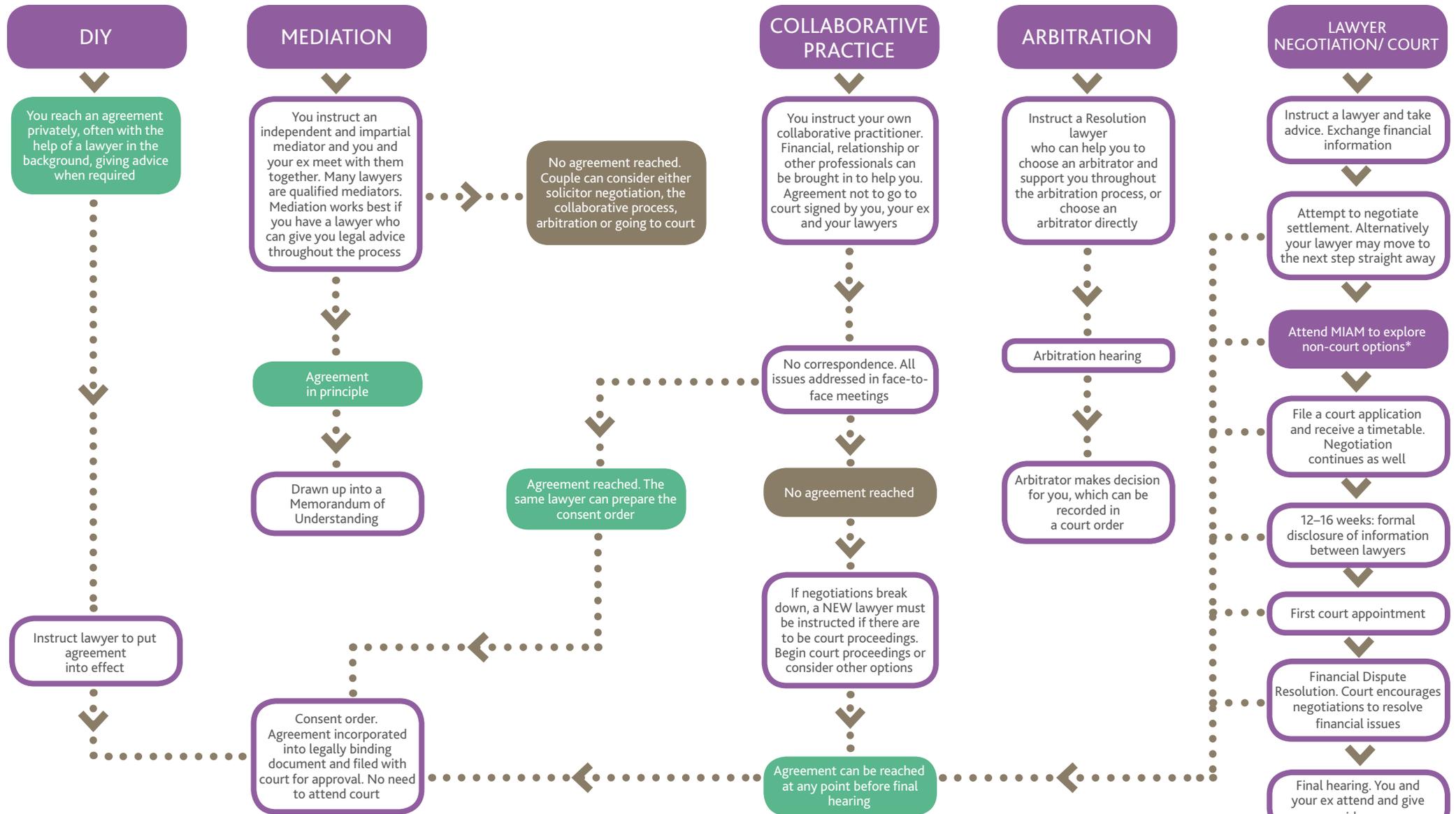
Once you have proposals you both find acceptable, the mediator will prepare a summary of them together with a statement of the financial information which will be sent to each of you to discuss with your own lawyer.

After you have both received legal advice and if you are both still happy with the proposals, the lawyers will convert the summary into a legally binding document and oversee any necessary implementation.

It is now a legal requirement (with some exceptions) that anybody wanting to go to court should attend a meeting (called MIAM) with an appropriately qualified mediator to find out about mediation and other non-court options.

Legal aid is available for mediation for those eligible, to assist with resolving your issues on divorce and separation. You will need to attend a Mediation Information and Assessment Meeting (known as a MIAM) at the outset to see whether mediation is right for you. If either you or your ex partner are eligible for legal aid both the MIAM and if appropriate the first mediation session will be funded for both of you.

Outline of options for separating and divorcing couples



A Resolution lawyer will advise, assist and support you through all of these processes. Children's needs will underpin any outcome.

*At this point you may decide to try an alternative process before going to court. See options above.

Collaborative practice

Under the collaborative process, each person appoints their own collaboratively trained lawyer and you and each of your lawyers all meet together to work things out face to face. Both of you will have your lawyer by your side throughout the process and so you will have their support and legal advice as you go.

You and your lawyers sign an agreement that commits you to trying to resolve the issues without going to court and prevents them from representing you in court if the collaborative process breaks down. That means all are absolutely committed to finding the best solutions by agreement, rather than through court proceedings.

Your lawyer will be by your side every step of the way and can bring in other independent and impartial advisers who are familiar with the collaborative process if and when that support is needed. You can choose to include a relationship counsellor, a child specialist, an independent financial adviser or accountant, for example. All these professionals will collectively make up your 'collaborative team'. Sometimes as part of this process you will go to see a mediator to help with certain things such as drawing up a parenting plan.

Sometimes only a couple of meetings are needed, in other cases four or five. These meetings follow agendas set by you and your partner. You will be able to decide which topics to focus on and whether to involve other experts, perhaps people trained to help children through the process, or pensions specialists. You will also dictate how frequently the meetings happen. Once an agreement is reached, your lawyers will put it into effect, obtaining a court order where needed.

Arbitration

In family arbitration you and your partner appoint an arbitrator, usually with the help of a solicitor. Your solicitor can also advise and assist you throughout the process.

The arbitrator will make a decision that will be final and binding between the parties, on any financial and property disputes arising from family relationships. The same arbitrator will deal with all stages of the case from start to finish, and will make a decision after hearing each party's case. The timetable is up to you and your partner to agree, so there may be flexibility as to the time and place of the hearings.

Family arbitration was developed to enable parties to resolve financial disputes more quickly, confidentially, cheaply and in a more flexible and less formal setting than a courtroom. It can also be applied to a specific aspect of a dispute, so if you and your partner agree on most other matters but cannot resolve one particular issue, this can be an attractive alternative to court.



Resolution lawyers are committed to helping you find the best solutions by agreement, rather than through conflict

Lawyer negotiation on your behalf

Usually you appoint a family lawyer who focuses on your interests and who negotiates with your partner's solicitor. Outcomes often depend largely on what these lawyers expect would be the result of any eventual court process. Many cases reach a satisfactory conclusion without going to court when resolved using lawyer negotiation, which can be used alongside other processes such as mediation.

Many people choose this approach because they want to be supported throughout the negotiation process.

Going to court

If an agreement cannot be reached, an application is sent to the court, although this sometimes happens right away if there are urgent issues to be resolved.

In order to issue a court application, you will need to confirm that you have attended a MIAM, or have an exemption which means you don't need to. A Resolution member can talk you through this process.

The court will then issue a formal timetable of next steps. If the court process reaches what is called the Final Hearing, the court has broad discretion to reach a final decision and make a Court Order, based on what the judge thinks fair.

A Resolution lawyer can support you through the court process to help you reach a fair outcome as quickly and cost effectively as possible, and with the least amount of stress for you and your family.

Parenting information

If you are thinking about divorce or separation, one of your biggest worries is likely to be about your children: where they will live and how they will continue to have a meaningful relationship with both of you.

Our experience is that, once parents put the needs of their children at the heart of the process, the other issues surrounding their separation are usually easier to resolve.

You can find a wealth of information on the Resolution website including details of helplines and support groups, useful online resources and information on parenting workshops which are run in different areas of the country.



Each family
is different

What factors may influence the route you choose?

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

- What would be the safest option and best for your children
- Wanting to feel in control of the decision being made about your family's future
- Whether your financial affairs are complicated and unclear
- Being up against a powerful personality and not wanting to deal with things on your own
- Believing you will need support to secure an outcome that is fair
- Wanting to keep control of the costs
- Not wanting delays or a lengthy battle
- Wanting an option that will bring certainty and closure
- Wanting the process to be as painless as possible
- Wanting to understand and influence what is happening
- Whether you qualify for legal aid.

**Find out more and search for
a Resolution member near you:
www.resolution.org.uk**



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