

# Financial Arrangements for Separating Couples

**M c A L I S T E R**

FAMILY LAW

## Court proceedings

Ask an experienced family law specialist lawyer to advise you of the various options (set out here).

If matters cannot be agreed using ADR methods or urgency requires it, the court process may be followed.

Referral will be made to an experienced family law mediator to conduct a MIAM (see mediation section) If mediation is unsuccessful or deemed unsuitable a form FM1 (which is included in the Form A) will be issued.

Lawyer will prepare an application for Financial Remedy Order (Form A) for submission to court.

Court issues the application and sends out a Form C order which sets out timetable for next steps by both parties.

Not less than 35 days before the first hearing, file and exchange financial statements (Form E) – providing full and frank disclosure of financial situation and documents.

14 days before the first hearing, each party file and exchange:

- Chronology.
- Schedule of Issues.
- Questionnaires.

First Directions Appointments (12-16 weeks from date of issue of Form A.) Intended to consider any steps required or expert reports necessary to allow the matter to progress.

About 2 to 3 months later the court will conduct a Financial Dispute Resolution (FDR) Hearing to see if agreement can be reached. If so the matter can be concluded, and an order approved.

If not, the matter will be set down for a final hearing where the court considers the evidence and will make a final order. The parties may still agree matters and submit a consent order for the court to consider at any point after the FDR.

## DIY/Pay as needed

It is important to consider getting some advice from a family law specialist lawyer to advise you of the various options before proceeding.

Caution is required to ensure that any steps you take do not negatively impact upon your financial situation.

Formally ending a marriage or Civil Partnership without considering financial arrangements, might prevent you receiving pension benefits from your former partner in the event of their death.

Even if dealing with matters yourself, you should consider exchanging financial documents.

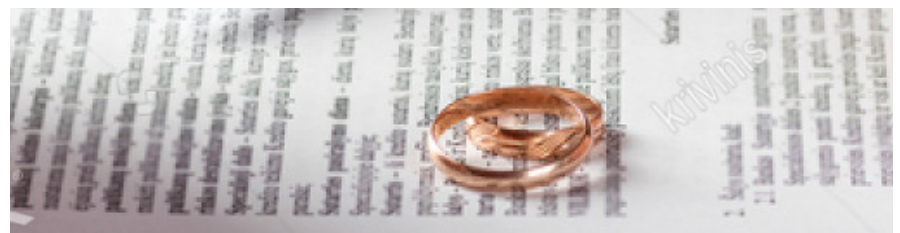
Knowing what assets and financial resources your former has, will let you understand if any agreement is fair and meet your needs.

If, you are happy to proceed to resolve matters you can ask an experienced family lawyer to review the proposals and advise if they appear fair.

If the former partners reach an agreement, a family lawyer can the prepare a Consent Application which formally sets out the agreement for submission to court. The documents will then be considered by each partner lawyer with a view to them approving them or suggesting any amendments. Both parties will then sign the document and send to court with a fully completed and signed D81 – Statement of Arrangements for Consent Order which sets out each parties' financial situation for approval. If approved the matters is resolved.

If matters are not agreed, you may wish to consider progressing to one of the other options.

Alternative Dispute Resolutions (ADRs) overleaf



For further information or to a arrange a free, no obligation consultation, then please contact our team on:

 +44 (0)161 507 7145

 [hello@mcalistefamilylaw.co.uk](mailto:hello@mcalistefamilylaw.co.uk)

# Alternative Dispute Resolution (ADR)

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## Arbitrated agreement

Family law arbitrators are experienced family lawyers who are regulated by the Institute of Family Law Arbitrators.

You and your former partner can appoint an arbitrator of your choosing.

The Arbitrator will make a decision that is intended to be final and binding between the parties.

The same arbitrator will deal with all or any of the stages of the case in respect of which the parties may need a decision.

Both parties will be able to have a say in the arrangements for the proceedings, including time, venue and how you should each engage in the process.

Arbitration is intended to enable separating couples to resolve disputes more quickly, flexibly and confidentially which can make it more cost-effective than applying to court.

Once an Arbitrator is identified, written information is provided to each party about the process.

An initial meeting will be held between the parties and the arbitrator with a view to identifying the issues, the decision needed to be made and the information required to make it.

Once issues are identified and documents exchanged the arbitrator will arrange the arbitration itself at which the parties may provide evidence about the matters in issue.

The arbitrator will make the final decision and make an award which will then be formally recorded in an order and be binding on the parties.

## Mediation

Search for a suitable and experienced Family Mediator.

Make a referral with your chosen mediator.

The mediator will undertake a Mediation Information Assessment Meeting (MIAM) and determine whether mediation is suitable.

In circumstances where the mediator considers that there is a history of domestic abuse or other reasons, they may determine that mediation is not suitable and suggest that an individual obtain advice from an experienced family lawyer, or contact the Family Court.

Court issues the application and sends out a Form C order which sets out timetable for next steps by both parties.

If mediation is considered suitable then the mediator will invite your former partner to engage in mediation.

If the invitation to mediate is accepted, there may be several meetings during which there will be an expectation to exchange full financial information and disclosure of documents between the parties.

If the former partners reach an agreement, a family lawyer can then prepare a Consent Application which formally sets out the agreement for submission to court. The documents will then be considered by each partner lawyer with a view to them approving them or suggesting any amendments. Both parties will then sign the document and send to court with a fully completed and signed D81 – Statement of Arrangements for Consent Order which sets out each parties' financial situation for approval. If approved the matters is resolved.

## Collaborative law

Collaborative law or practice is a process conducted by collaboratively trained family lawyers, who commit to resolving matters without engaging in court proceedings, by working with your former partner and their own Collaborative Lawyer.

You will need to first identify and instruct an experienced family lawyer who is collaboratively trained.

Your former partner will also need to be invited to instruct their own Collaborative Lawyer.

You will each then sign a participation agreement whereby you will commit to dealing with matters without all court options.

You, your former partner, your respective Collaborative Lawyers and any other appropriately qualified experts, such as Independent Financial Advisors will then attend and engage in 4 meetings with a view to exchanging all financial information and documents.

Both parties and their lawyers will attempt to work towards a negotiated and agreed settlement which will meet each parties' needs.

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