

MEDIATION

Do I need a solicitor during the mediation process?



DO I NEED A SOLICITOR AS WELL AS A MEDIATOR?

The role of a mediator is to remain impartial and help facilitate discussions between separating couples. This means your mediator cannot provide either party with legal advice.

During mediation, the parties are free to negotiate and consider all of the options available to them without being bound by decisions until independent legal advice has been provided and a concluded agreement reached outside of the mediation process.

Alongside the mediation process it is usual to obtain independent legal advice and there will be points during mediation where your mediator may encourage you to do so. When matters reach a conclusion at mediation, your mediator will prepare a Memorandum of Understanding to detail what has been agreed and your mediator will then refer the parties to appoint a solicitor to draw up the financial settlement or Parenting Plan/Agreement.

HOW WILL MACHINS SUPPORT ME DURING THE MEDIATION PROCESS?

At Machins, all our family law specialists are members of Resolution ([resolution.org.uk](https://www.resolution.org.uk)). As members of Resolution, our solicitors are committed to the Resolution Code of Practice which promotes a constructive approach to family issues, aims to reduce costs and decrease acrimony. Several of our solicitors are also accredited by Resolution as specialists in resolving children and financial matters.

It is important to remember that mediation is not a standalone process and separate independent legal advice should be seen as an integral part of a successful mediation and not an alternative. Our solicitors are not here to stop you mediating; we're here to make sure your best interests are met through the mediation process and that you get the right legal advice.

There are specific parts of the mediation process that would more often than not benefit from independent advice from a qualified legal expert:

- Preparing legal documents for mediation. This can include your financial disclosure forms;
- Reviewing legal documents exchanged in mediation. This can include your former partner's financial disclosure forms and advising on reasonable requests for further information;
- Instructing a single joint expert, such as a independent business valuer or pension on divorce expert (PODE)/actuary to provide a report for discussion in mediation;
- Considering the fairness of any proposals being discussed and advising on proposals to make at mediation;

HOW CAN MACHINS SUPPORT ME AFTER MEDIATION CONCLUDES?

If the arrangements for your children are agreed at mediation, Machins can prepare and advise on a Parenting Plan/Agreement so that the arrangements are documented and clear for both parents to follow.

A financial agreement reached at mediation is not legally binding and is not enforceable in court. It is imperative that you get advice from a solicitor about how to make your agreement binding by putting it in to an appropriate format; which may be a Consent Order for lodging with the Court or a Separation Deed. A solicitor will advise you about this and draft the financial settlement or advise about a draft financial settlement prepared by your former partner's legal advisor. Independent legal advice for both parties is important as financial settlements are complex legal documents which you will both need to fully understand.

WHAT IF THE MEDIATION PROCESS BREAKS DOWN OR IT'S NOT FOR ME?

Even if mediation does not resolve all the issues, it can still help narrow the disputes between the parties. If mediation is unsuccessful, as a whole or just in respect of a single issue, there are various other options to consider, including a number of alternative dispute resolution processes that don't involve going to court. Our solicitors can advise about all options available including, but not limited to:

- Solicitor negotiations;
- Lawyer-led mediations;
- Round-table meetings;
- Shuttle negotiations;
- Early neutral evaluations by an independent barrister;
- Arbitration; or
- A hybrid or combination of some of the above.

WHAT ARE THE COSTS OF LEGAL ADVICE ALONGSIDE MEDIATION?

At Machins we offer an initial 90-minute consultation with our solicitors for £250 plus VAT. In the initial consultation we can provide further detailed costs estimates tailored to your case and your needs. Thereafter, our solicitors charge on the basis of their hourly rate and the rates range from £225 plus VAT to £275 plus VAT for solicitors and £330 plus VAT to £350 plus VAT for partners.

Every case is unique and every client engaged in family mediation will need a different amount and level of legal advice alongside the mediation process. In some cases, a fixed fee can be offered.

WHAT THE EXPERTS SAY

"It's a fantastic team with a fantastic level of service." Chambers and Partner 2024

"A fabulous family team. Very proficient, strong and with an excellent reputation. They are an excellent team of solicitors with a strong wealth of experience in all areas of family law. They are always a pleasure to work with and I would highly recommend them." Legal 500 2024

If you would like more information about any aspect of family law, please contact Laura Martin-Read, Family Law Solicitor, Machins Solicitors

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