

CHILD ARRANGEMENTS AT THE TIME OF DIVORCE OR SEPARATION

The biggest concern for many parents at the time of divorce or separation is the impact on their children.

When parents are unable to agree about their children many find that mediation helps. As well as the more traditional form of mediation between two parents, many mediation services also offer mediation which involves direct consultation with the children to help parents focus on the needs of their children.

How does Mediation work?

Mediation is a voluntary process which the Courts actively encourage. Both parties meet together with a neutral mediator (s) to discuss the issues between them.

The Mediator encourages dialogue, helps to clarify issues, to explore options and test which may work best in practice. If agreement is reached, that agreement can be recorded in a document which although not legally binding, can be made into a legally binding document if the parties wish.

Children are not automatically involved in Mediation, but Mediators will encourage parents to consider their children's wishes and feelings. The Mediator can discuss how both parties can talk to the children about the changes that will be happening and how to help them to understand those changes. Both parties will wish to ensure that the views of their children are taken into account in issues that directly involve them, in light of the children's ages and understanding.

Mediation has a number of potential advantages over the traditional Court process. The process is flexible and can be tailored to the parties' particular needs. It can promote discussions and concessions that may not be possible in the Court process. Unlike the Court process where a Judge will be appointed and the process is fixed, the parties choose the mediator and remain in control of the situation and the decision making process. This can lead to longer lasting settlements than those which are imposed by the Courts. It can also be considerably cheaper than the Court process.

How does Arbitration work?

Child arbitration is also available as an out of court option for parties who wish to opt for a faster and bespoke alternative to a more formal Court based process.

Arbitration can have many advantages to applying to Court. It can be flexible, it can be more cost effective. Both parties appoint a specialist family Arbitrator to settle the issues between them. It is a voluntary process but once it has started it can deliver an outcome that will bind both parties.

The Arbitrator will impose an outcome on both parties. There will always be some cases where, for whatever reason, agreement simply cannot be reached.

Unlike the Court imposed timetable, the timing of an arbitration can be tailored to suit the parties' requirements. Arbitration Hearings are not open to the public or press. It is a tailored process, the Arbitrator decides only the issues that the parties agree need to be resolved and will decide the procedures to settle those issues fairly and to avoid unnecessary delay or expense.

Parties can choose to have face to face meetings as part of the arbitration, they can be represented (for example by a solicitor) but the process does not require that and parties can decide to represent themselves.

For advice about child arrangements or any other Family Law please contact Steven Barratt or Heather Weavill at Alison Fielden & Co on 01285 653261.