

Better outcomes for families with mandatory mediation



Front and centre of today's news concerns the Ministry of Justice's publication of new proposals, attempting to further reduce the amount of the separating couples using the family courts by encouraging mediation as an alternative. The consultation entitled "[supporting earlier resolution of private family law arrangements](#)" seeks to highlight the Government's view that more disputes can be resolved outside of court to spare families from "unnecessary stress and children from avoidable anxiety".

Although cases concerning domestic abuse and child protection concerns would remain unlikely to be suitable for mediation, the MOJ's proposals seek to place a requirement on separating couples to attend mediation, whilst also requiring parents to attend a parenting programme before attending court. Currently, this parenting programme is generally only ordered by the court once proceedings are off the ground, so it is a welcome proposal that parents are given valuable co-parenting tools at an early stage, and hopefully before relationships inevitably deteriorate in the hostile environment of the courtroom.

In addition, the MOJ's proposal considers the introduction of the deterrent of costs orders being made against individuals if they do not try to mediate. The general rule in all family proceedings (with exceptions) is that each party pays their own costs. If one party knows that they might have to cough up for their spouse's fees as well, they may of course think twice before initiating court proceedings.

Finally, with the cost of living crisis not showing any signs of let up, and interest rates continuing to rise, quite clearly the funding of a court case will be at the forefront of any separating couple's mind. The MOJ is therefore seeking to build upon the relative success of the family mediation voucher scheme to make funding permanent for child cases, while considering whether this should be extended to financial cases.

We will watch this space to see how this unfolds and whether this really does lead to a reduction in court cases



and an uptick in mediations. Meanwhile, if you are considering mediation as a method of resolving matters arising from the separation from your spouse, please do not hesitate to contact our expert [mediators in our family team](#).



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