

FACT SHEET

How To Guide: Resolve Family Issues

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Via Lawyers

In financial matters, this would involve swapping financial disclosure and then taking advice on the fair parameters for settlement from your respective lawyers.

In children matters, this would involve discussing the issues with your lawyer and taking advice on the possible options for settling the issues.

A settlement would then be negotiated, via correspondence, by telephone or at round table meetings.

Round table meetings involve both spouses and their lawyers meeting face to face to negotiate a fair outcome.

In financial matters, a court order would be drawn up once an agreement had been reached and sent to the court for approval. The agreement is only binding once it is documented into an order that the court has approved.

In children matters, the court will only make an order where it is in the child's best interests to do so. The court is usually very reluctant to make an order where the parents have agreed (save where there are already court proceedings in place). However, any agreement reached via lawyers would usually be documented into a parenting plan. This is an agreement which sets out what has been agreed and provides clarity for parents in future.

Mediation

This would involve both parties meeting with a qualified family mediator. The mediator would facilitate constructive discussions and help to negotiate an

outcome. Mediators cannot give legal advice, and so it is sensible for lawyers to be retained in the background to help each party.

In financial matters, the parties' lawyers would each assist their client to present their financial disclosure, to review the other's disclosure and to advise on the fair parameters for settlement.

Again, a financial order or parenting plan would be drawn up by the lawyers to document the terms of the agreement which is then sent to the court.

For more information, please see our separate guide on the mediation process: [How to Guide: Mediation](#).

Arbitration

Arbitration involves the appointment of a qualified arbitrator to effectively take on the role of a judge. The process is privately funded, and as such, is far quicker than the court process, and can take place at a time and venue that is agreed between the arbitrator and the parties.

The parties can also agree the issues to be decided upon by the arbitrator (which is not always the case via the court process). The arbitrator's 'award' (decision) is binding, and the parties agree at the outset that an order in the same terms will be sent to the court for approval.

For more information, please see our separate guide on the arbitration process: [How to Guide: Arbitration](#).

Court

We always try to avoid court if possible as it is usually costly, lengthy, and stressful. However, it is necessary where parties are unable to reach an agreement without the court's input. There may be up to three court hearings (and possibly more if there are other issues for the court to take into account), and the court will make a decision at the final hearing.

For more information, please see our separate guides on the court process:

- » [How to Guide: Children Proceedings](#)
- » [How to Guide: Financial Remedy Proceedings](#)

It is possible to negotiate a settlement at any point during the court process, and commonly, parties initiate the court process simply to ensure that there is a timetable in place to progress matters.

Do it Yourself

Some parties prefer to keep lawyer involvement to a minimum, and negotiate an agreement directly with their spouse. This may involve taking initial advice without financial disclosure and then negotiating directly.

In financial matters, this is extremely risky because any advice will only be based on our client's understanding of their spouse's financial position. There will be no opportunity for the lawyer

to review each party's financial disclosure to ensure that it is accurate, to raise any queries, to identify other issues (e.g. tax consequences, valuations), and to advise based on an accurate figures.

We are sometimes only instructed once an agreement has been reached, and our clients do not wish to receive any advice on the accuracy of the finances on which the agreement is based, or the fairness of the settlement. Our remit would simply be to prepare an order to be approved by the court.

We understand that legal costs can be an additional stress at a time when clients are already in a stressful situation following the breakdown of their relationship. We can assist clients who wish to use a 'DIY' approach, but would encourage extreme caution in doing so.

In our experience, the reduction of legal costs by using a DIY approach is often a false economy, as we are normally able to identify financial issues that would affect the financial settlement, and that would achieve a better outcome for our clients.

We would also require a disclaimer from any client that wishes to pursue this route, as confirmation that you understand that it is our advice to obtain full and frank disclosure such that informed advice can be given, and the best possible outcome can be achieved for you.

This fact sheet has been provided for information purposes only and should not be construed as legal advice. Whilst every effort has been made to ensure that the information in this fact sheet is correct (as at November 2020), it is intended as a guide only and should not be relied upon. Specialist legal advice should be sought so that all the factors specific to your circumstances can be taken into account.