



FACTSHEET

for single parents in England and Wales

June 2009

0808 802 0925
Gingerbread Single Parent Helpline

Help with reaching agreements when a relationship ends

Whether you are married or unmarried when your relationship ends, you will need to come to an agreement with your ex-partner about arrangements to do with the children, financial matters and property.

It may be possible, with legal advice, for you to come to an agreement about these matters between yourselves, or with the help of a mediator or solicitor. If you can do this, and avoid going to court, it will be quicker, less expensive and easier for everyone involved in the long term.

Getting legal advice

Where there is violence or threatened abduction it is essential to involve a solicitor at once. If you qualify, emergency publicly funded help with legal costs is available, and your solicitor will help you make the application.

Before you start negotiation and/or mediation you should see a specialist family law solicitor for general advice about your and your child's legal rights. It may also help to get advice during the negotiation/mediation process so that you know what the possible consequences are of the proposals that are being made. This is not the same as asking a solicitor to act on your behalf or starting legal proceedings.

You should always seek legal advice before entering into an agreement, to make sure it is fair to you and your children. If you don't, it may be difficult to change later on and could end up costing you more financially in the long run.

Contact Resolution (formerly the Solicitors Family Law Association) on 01689 850 227 or see www.resolution.org.uk for details of member solicitors who take a constructive, conciliatory approach to relationship break-ups. If you are applying for help with the costs, make sure the solicitor has a community legal service contract. Contact Community Legal Advice on 0845 345 4345 or see www.communitylegaladvice.org.uk

Negotiating with your former partner

In order for any negotiation to be successful and fair to both of you it's worth bearing the following things in mind:

- When trying to reach agreement about contact arrangements between the children and your ex-partner, be clear about what is in the child's best interests, but also be flexible and willing to compromise.
- Be realistic about finances and property – if there are not enough resources to meet everyone's needs, you will need to find a compromise that prioritises the needs of children.

- Be open and honest when discussing your finances;
- Have a clear idea about what you want and the options that are available – meeting with a solicitor at least once can help you do this.
- When an agreement is made, it should be clear, precise and written down (but written agreements should not be signed before you have received proper legal advice). If the written agreement is not clear, or if you or your ex-partner understands the agreement differently, this can cause disputes later on. (Also see How can I make an agreement legally binding? on page 3.)

If it is not possible for you to come to a fair agreement between yourselves, a mediator may be able to help you.

Using a mediator to negotiate with your former partner

Mediation is not an alternative to legal advice. An interview with a solicitor before mediation takes place can help you to be clear about your rights and options. You may be able to get publicly funded help with legal costs to do this.

If it is possible for you and your ex-partner to come to an agreement through mediation, it is likely to be quicker and less expensive than negotiation between solicitors, or for the dispute to be taken to the courts when barrister's fees and other costs may also have to be paid. Reaching agreements through mediation may also help to reduce hostility between you and your ex-partner and help you to refocus more positively on your relationship as parents.

What is mediation?

This means helping people who are in dispute to exchange information and resolve their differences. An impartial mediator can help you to reach decisions about children, or finances, or both. The mediator will not take sides or tell you what to agree to – they will encourage you both to be open and honest, explore the different options and reach your own informed

decisions. You can use mediation even if you have already started court proceedings.

Who is mediation suitable for?

Mediation depends on two people voluntarily wanting to reach an agreement even though they may hold quite different viewpoints at the start of the process. In some cases, it will be clear that mediation will not be appropriate. This may be because there is a fear of violence, your ex-partner will not participate or because one of you wouldn't be able to attend the meetings because of where you live or because you have a disability. If mediation is not suitable see Using a solicitor to negotiate with your former partner on page 3.

What happens at the end of

If you are applying for publicly funded help with legal costs for your solicitor to negotiate on your behalf or represent you in court proceedings, you have to attend an initial meeting to assess whether mediation is suitable, unless your application for funding is to do with domestic violence, preventing your ex-partner from disposing of property or if you need emergency representation.

mediation?

If you are able to come to agreement through mediation it will be put into writing and you will be advised to take the agreement to your solicitor to check that it is fair and reasonable and is in line with the sort of outcome that a court would order. The court can make the agreement into an order – see How can I make an agreement legally binding? on page 3. This will normally only cover the parts of the agreement to do with finances rather than the arrangements to do with the children.

What does mediation cost?

Your solicitor or the mediation service you are using will be able to advise you if you are entitled to publicly funded mediation, which is free.

Otherwise, the costs will vary, and are likely to be per session. It is important that you find out before you start how much each session costs (there are no hard-and-fast rules as to how many mediation sessions a couple will need but between three and five is the average), and that you agree in advance how you are going to pay the costs.

How to find a mediator

If you are applying for help with legal costs, the mediator must have a contract with the Community Legal Service (CLS). Call Community Legal Advice on 0845 345 4345 or see www.communitylegaladvice.org.uk. Alternatively, contact Family Mediation Helpline on 0845 602 6627 or see www.familymediationhelpline.co.uk

Using a solicitor to negotiate with your former partner

If negotiating with your ex-partner directly and/or using a mediator is not suitable or has failed, you should ask a solicitor to start negotiating for you. You may be able to get publicly funded help with legal costs to do this – contact Community Legal Advice.

Once you have discussed with your solicitor what your options are and what decision a court might make in your circumstances, your instructions to the solicitor must be clear and precise, otherwise they will not know what can be agreed on your behalf.

See Getting legal advice on page 1 for details of Resolution, which can help you find ‘collaborative lawyers’ who aim to resolve issues by negotiation in face-to-face meetings or meetings where you are present but not necessarily in the same room as your former partner and their solicitor.

Sometimes, even instructing a solicitor to negotiate

may not always produce an agreement, but the solicitor will be able to advise you when to start legal proceedings for a court to decide on the issues, and what this could involve in terms of time and costs.

How can I make an agreement legally binding?

If you have come to an agreement about financial matters either through mediation or negotiation, you can apply to the court to have the agreement made into a Consent Order. The court will look at details of both of your incomes and assets and, if they consider the agreement you have made to be fair and reasonable, they will make it into an order. This means that the agreement you have come to can be enforced by the court.

You will need to get advice from your solicitor before the agreement is drawn up and again before you sign it to make sure you understand all its terms and that it is fair to you and your children.

The Gingerbread Single Parent Helpline offers information and advice to single parents across England and Wales. It is supported by the Department for Children, Schools and Families, Scottish Power and other funders. Our partner organisation in Scotland, One Parent Families Scotland, runs the Lone Parent Helpline, on 0808 801 0323.

The Gingerbread Single Parent Helpline is accredited by the Telephone Helplines Association with the Parent Know How Quality Standard and holds the CLS Quality Mark at General Help Level.

Community
Legal Service



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Gingerbread
Single parents, equal families

Gingerbread is registered in England and Wales as the National Council for One Parent Families, a company limited by guarantee, no. 402748, and a charity, no. 230750

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A large-print version of this factsheet is available on request: please call 020 7428 5433