

Family Law: So many choices, what's the right way forward?

14 AUGUST 2012

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You are coming to see your family lawyer and you are provided with a range of different ways of dealing with your case. I appreciate it's pretty confusing and difficult. In this post I outline what these different routes mean.

1. Mediation

Both parties go and see an independent neutral facilitator who will try and help them resolve their differences. Generally speaking their solicitors are not present during the mediation but will instead be giving advice outside the process and assisting generally. Some mediators deal only with financial cases whereas others deal with children cases. Some deal with both. Generally speaking mediation takes three to five sessions of one and a half hours per session. The conventional wisdom is that mediation is much cheaper than the legal process and is often used where clients have a high degree of consensus and an ability to communicate well and see things from the other person's point of view.

2. Collaborative Process

In this process both parties meet with their lawyers to try and settle their case in a series of four way meetings. They agree to an open and transparent process. Crucially, they sign a participation agreement indicating that if they proceed to litigation, then their current divorce lawyers are sacked and they start again with new ones. This process appeals to clients who would like to reach a consensual settlement and would very much like to be involved in the process. They also would like to have their lawyer by their side in meetings (unlike mediation). Collaborative practice often takes a holistic approach and deals with children and money issues alongside each other. Sometimes other professionals are involved in the meetings eg independent financial advisers; valuers; accountants; family consultants.

3. Arbitration

The parties elect an arbitrator who will adjudicate their dispute. They agree to be bound by the arbitrator's decision which in turn will be made into a court order. Their solicitors will generally be fully involved in the process and will often attend the arbitration and represent their clients there. Arbitration is an alternative to the court process and has the benefit of the parties being able to choose their decision-maker and to deal with their case as slowly or quickly as they would prefer.

4. Litigation

Some cases need to be litigated through the courts and the court system is set up fully for that process. A Form A will be issued by one of the parties and this in turn will invoke a court imposed timetable. It is possible whilst dealing with matters via the court route to negotiate or use forms of dispute resolution at the same time. Indeed, the parties are encouraged at every stage to consider whether or not they are able to reach a negotiated settlement so as to prevent them going to a final hearing (trial). For further information there is a helpful options leaflet produced by Resolution which can be found on the [Resolution website](#). Alternatively, you may want to speak to a solicitor just to work through the best process for you. Feel free to contact me on 0207 597 6632 or Suzanne.kingston@withersworldwide.com