



Family Mediation Week – How Mediation can help families

Today marks the commencement of Family Mediation Week. The Family Mediation Council in collaboration with many members and experienced mediators are raising awareness of family mediation and how it can be used to benefit separating families instead of engaging in what can often be lengthy and costly court proceedings.

There are numerous articles and webinars that are available to the public and professionals within the family law sector to read and watch during the week. The aim is to increase awareness and understanding of family mediation and clarify some of the myths and misconceptions around mediation.

No process is right for everyone. However, when a family separates, it is important to consider all options from the outset and have a good understanding as to what each option entails. What is clear is that families need to find another, better way of moving on after separation for their own sake (and crucially the sake of any children) as the court proceedings are often stressful and draining even when you get a favourable outcome.

Mediation is a process in which an independent, professionally trained mediator helps those involved in family breakdown reach decisions regarding issues relating to separation, divorce, children, finance or property.

Much of mediation is about enabling communication between the separated participants. It sounds so simple – to be able to communicate with each other – but in practice it is much harder to do when the emotions are running high and perhaps one of the reasons the relationship has broken down is the lack of (or ineffective) communication. This is especially important when there are children involved, and separating adults will need to co-exist to some extent and to co-parent their children. Communication is key here.

One of the main misconceptions people have about mediation is that they will be able to air their dirty laundry within the process and get some sense of justice or approval of their actions.



Mediation is not therapy. It might be that therapeutic work is also required, and the mediator can certainly make some recommendations if needed. However, the focus in mediation is on the future, not the past. That is not to say that past events will not be discussed at all as context may be required to understand the dynamics of the family and why people have certain concerns or worries. But it is not for the mediator to establish who was right or wrong. In some cases, preliminary or simultaneous therapeutic work will be needed to make mediation work.

It is often seen in sessions that people struggle to communicate effectively because they do not hear each other. They might need to rephrase how something is communicated, or they may need to soften how something is said. That is part of the mediator's job – to bridge the gap in the communication of the two people in the room and enable them to hear each other in a way that is focused on understanding each other's perspective better and finding solutions. This can be difficult when there is already a high conflict situation at play and the participants are stuck in their views, not willing to budge from their positions. But mediators are well trained with all sorts of tools in their toolbox to facilitate productive discussions whilst staying impartial and sensitive to both participants' views.

The way one communicates, and the language used, can make a huge difference to how what they say is perceived. Everyone has their own biases and assumptions which means that it is up to the mediator to unravel what works best for each participant, ascertain what might be stopping them from progressing discussions, and identify what support and approach can assist them with moving forward. Sometimes people are unaware of their own communication styles and biases which means it might take some time for them to appreciate and accept the support offered. The key point here is that everyone is different and that is why it is so crucial that mediation offers the flexibility to adapt to the needs of both participants to enable them to engage in discussions that will hopefully assist their family as a whole.

What is also important to understand is that success of mediation can be measured in different ways. The aim is to find a solution with which both participants feel comfortable. Mediation gives them the power and control of what they decide is best for their family without them being forced to anything, as opposed to when a judge is required to make a decision that may not necessarily satisfies either side of the family proceedings. Bearing that in mind, mediation does not offer a magic wand. If two people are unable to agree on a solution, the mediator will not force one and it may be still required to use other means of resolving the dispute. That does not mean that mediation was entirely unsuccessful. It could potentially still narrow the issues in dispute between the participants or simply assist with them communicating on a day-to-day basis. That would still



be a success if prior to that they were unable to exchange two sentences without throwing some unpleasantries.

Unfortunately, not every case can be resolved or assisted through by attending mediation. Some may simply not be suitable for mediation owing to safeguarding issues. Some may involve parties that are completely unwilling to compromise, and no amount of persuading and discussions will convince them to change their mind. Others will require the court's intervention urgently on a specific issue. Families take all shapes, and no one will ever find a solution that agrees with everyone. Nevertheless, if there is even an inkling that mediation could assist it is worth exploring all options.

If you wish to learn more about mediation, please contact one of our mediators to have an understanding of the different out of court solutions and how these can be used to assist your family. No matter which stage you are at, it is always good to know what is available to you and how you can find a solution that is best suited for your family's needs.

Agata Osińska

agata.osinska@iflg.uk.com

The International Family Law LLP

www.iflg.uk.com

© January 2025