



Family Court and Non-Court Dispute Resolution changes into effect from 29 April 2024

The Family Procedure (Amendment No 2) Rules 2023 (SI 2023/1324) come into force today, 29 April 2024. These changes are concentrated around the work done by the Family Procedure Rule Committee in relation to early resolution of the private family law proceedings.

What is Non-Court Dispute Resolution?

In accordance with FPR 2.3(1)(b) now means:

'Methods of resolving a dispute other than through the court process, including but not limited to mediation, arbitration, evaluation by a neutral third party (such as a private Financial Dispute Resolution process) and collaborative law.'

Changes being introduced:

MIAMS

The mediators undertaking Mediation Information and Assessment Meetings ('MIAMs') will now be required to not only inform the parties attending of the other means of resolving matters than court, but to go through the other options available to the parties and indicate which one might be suitable to them, given their specific circumstances.



Some exemptions have been scrapped or amended to either reflect the current law, (such as the change from '*domestic violence*' to '*domestic abuse*' to broaden the definition in line with the Domestic Abuse Act 2021) or to tighten up the use of the exemptions, especially when it comes to the availability of mediators based on the location given that most can now do it remotely.

The parties will also now be required to provide evidence for claiming an exemption and the court must enquire whether the exemption was validly claimed and if it continues to be applicable throughout the proceedings. It is unclear at this stage who would undertake the work of verifying the exemptions and at what stage.

FM5

The parties will now be required to consider non-court dispute resolution and to submit Form FM5 explaining their position ahead of the first hearing and additionally at later stages, if so directed. The court will now have the power to adjourn proceedings to facilitate non-court dispute resolution, even without an agreement from the parties.

Costs

In financial remedy proceedings, if a party fails to engage in non-court dispute resolution without good reason, there will be a real risk of costs orders being made. It is hoped that this will incentivise parties to seriously consider resolving matters out of court.

Whilst the changes do not mandate non-court dispute resolution, they are certainly aimed to encourage both parties and professionals to consider these alternatives to court very carefully. It remains to be seen how this will change what happens in practice and whether we will now see more matters being adjourned to attempt settlement through other means such as mediation or arbitration for example.

Agata Osińska

agata.osinska@iflg.uk.com

The International Family Law LLP

www.iflg.uk.com

© April 2024