

Agreement to Mediate



Names:

We have decided to use mediation to resolve issues between us and make our own plans for the future. Any proposals we reach may be written in a Memorandum of Understanding or Outcome Statement.

1. By signing this agreement, we express our sincere intention to attempt to:
 - ◆ Be fair to each other throughout mediation
 - ◆ Leave fault and blame out of the negotiations
 - ◆ Be co-operative in resolving disagreements
 - ◆ Consider our individual needs, the needs of each other and each child and the needs of the family as a whole
 - ◆ Work for the least possible emotional and financial upheaval for all concerned
2. We understand that mediation is voluntary and could be stopped at any time by either of us or by the mediator
3. We understand that all communications, (except the disclosure of financial information) to which the mediators are party, are made solely for the purpose of attempting to reach a settlement and are made on the basis that the communications are both (a) confidential and (b) will not be referred to in evidence in any court proceedings about the same issues. They will not be used in affidavits or statements.

The exception to this confidentiality is where a child or any other person is at risk of serious harm. In these exceptional circumstances, the mediator would normally seek to discuss the action to be taken with each of us before taking any action to contact the appropriate authorities.

If the mediator has reason to believe that either party has benefited or may benefit from the proceeds of any crime there may be a duty to make a report or to terminate the mediation

4. We will not call the mediator as a witness, nor require him/her to produce in evidence any records or notes relating to the mediation in any litigation or other legal process connected with the issues being considered in this mediation.
5. **Finance and Property mediation only.** During the course of mediation we agree that:
 - ◆ We will make full, frank and true disclosure of finances and provide all supporting documentation.
 - ◆ We will not transfer charge, conceal or otherwise dispose of any assets except for the purpose of providing for living necessities and expenses in the ordinary course of business.
 - ◆ We will not make any further charges under any charge account for which both of us are legally responsible, unless mutually agreed upon.
 - ◆ Financial disclosures are made on the basis that they are confidential to the Service but may be disclosed to our solicitors and may be used in evidence in Court.

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Names: _____

6. We will not expect to communicate directly with the mediator outside of mediation sessions
7. We agree to pay the Family Mediation Service according to their scale of charges.
8. **Payment will be made in advance of each session. If one of us is unable to keep a scheduled appointment, she/he will notify the other and the Service at least 3 working days in advance. If 3 working days notice is not given, we accept that we will be liable to pay a charge for the appointment not kept. Payment for the preparation of Open Financial Statements and Memorandum of Understandings will also be paid in advance.**
9. We acknowledge that at no time will we receive financial, legal or other advice from the mediators or the mediation service.
10. We acknowledge that we have been told of the advantages of having separate solicitors to whom we will refer before, during and at the end of mediation as appropriate.
11. If a Memorandum of Understanding or Outcome Statement is prepared, we acknowledge they are not legally binding documents. We can instruct our solicitors to prepare a legally binding document based on the Memorandum of Understanding or Outcome Statement.
12. If difficulties should arise in consultation with the solicitors, we will notify the mediator of the need for further discussions.
13. To maintain quality, MID's files may be subject to audit by the Legal Services Commission (LSC). Any LSC representative reviewing files is bound by legal requirements of confidentiality. If you are a fee-paying client, you may withdraw your permission to have your file audited by ticking the box below your signature.

Signed: Date:

Signed: Date:

Your Memorandum of Understanding & Summary of Financial Information



At the end of mediation, 2 documents will be prepared for you. These are:

1. Memorandum of Understanding
2. Summary of Financial Information

1. **Memorandum of Understanding.** This is a summary of the proposals reached during mediation. It is legally privileged and is intended to help you to obtain legal advice on your proposals. It does not create or record a legally binding agreement between you. A typical Memorandum of Understanding will include the following information.

- ◆ **Background:** setting out the date of your marriage, or relationship; details about you and your children; the date of your separation and whether you are seeking a divorce settlement or separation agreement.
- ◆ **Your Aims:** explaining what particular aims, for yourselves and your children, have influenced your proposals; what you have taken into account in arriving at your own definition of a balanced and fair settlement.
- ◆ **Arrangements for the Children:** including details of the children's living arrangements; the time they will be spending with each parent; your proposals concerning future decision making and consultation about the children; if you are unmarried, whether you will share parental responsibility; how the children will spend time with other important relatives.
- ◆ **Child Support:** setting out the amounts agreed; the date and the method of payment; arrangements for periodic review; events that would trigger an exceptional review, i.e. cohabitation, remarriage, change in financial fortunes. Where you have agreed a figure for Child Support payments, the Memorandum will state that you have been informed that the Child Support Agency have the power to override this aspect of your agreement, were they to become involved.
- ◆ **Your Incomes:** details of your present gross and net incomes, e.g. earning and other sources of income, interest, benefits, dividends etc; your projected future incomes; your estimated future financial needs and outgoings; your proposals for achieving financial independence.
- ◆ **Your Assets:** details of the value of all your joint and individually owned assets e.g. your house, the surrender value of insurance policies, savings accounts, shares, cars, valuables, inheritances, what you brought into your marriage and what has been accumulated during it. All these and other assets must be disclosed.
- ◆ **Pensions:** details of the transfer values of any present pension funds; the relative proportion of pension contributions made before and during your marriage; the value of any death-in-service benefits.
- ◆ **Debts:** the amount of any major joint or individual debts, e.g. loans, credit cards, etc.
- ◆ **Financial Plans on Separation:** how, and in what proportions, your assets and debts are to be divided; the reasons that have influenced your decisions; whether you are seeking a "clean break" settlement or ongoing maintenance from/for your ex-partner; how the divisions are to be put in place, particularly with regard to any mortgage, endowments or pension provision.

Your Memorandum of Understanding & Summary of Financial Information



- ◆ **Wills and Nominations:** your intentions concerning drawing up of wills in the event of divorce; your plans regarding any nominations to be made to pensions schemes' death-in-service provision.
 - ◆ **Date of Application:** when you wish your agreement to be applied; what action you propose regarding any joint bank or savings accounts, standing orders, direct debits etc.
 - ◆ **Future Disagreements:** how you propose dealing with any future disagreements concerning, e.g. arrangements for the children, amount of child support. These might include the further use of mediation for instance.
 - ◆ **A Summary of your proposals.**
2. **Summary of Financial Information.** This records all the details of your income assets and debts that you will have shared in mediation and accepted as accurate. These will have formed the basis discussions and any proposals that have resulted. You would have been told the importance of full disclosure and will be asked to sign to confirm that this disclosure has been completed. This summary is not a legally privileged document and the details in it are regarded as open information which may be used in court.

Introduction

Working out your financial futures requires a sound estimate of what you will need and detailed reckoning of what your income and assets are or could be. With this information in front of you, you can then look together at possible options and choose the solutions that will best suit all the members of your family.

The mediator helps you to do this by using three forms which enable you to gather the financial information needed for the mediation process.

- A. Your **income** - worked out on a monthly basis
- B. Your **estimated future expenditure** - on a monthly basis.

A *checklist* of all the things families usually spend their money on is included to help you work out your future expenses. It is very detailed and is simply a guide to you as you work out some broad totals for your future needs.

- C. Your **assets and liabilities**

NB) Details of your Income, Assets and Liabilities are regarded as open information and may be used by each of you in court.

The mediator helps you find ways together of bridging the gap between what you think you will have and what you think you will need. That is the essence of using mediation to settle finance and property issues.

How to complete the forms

- ◆ You must each fill in a separate form in your own right.
- ◆ As far as possible round up or down to the nearest pound
- ◆ Once the forms are completed, please obtain **two** photocopies and bring these to the session.
- ◆ One copy should be given to your partner/ex-partner; the other is for the mediator(s).

During the session the mediator(s) will display all your figures for everyone in the room to see so that you can work on them together.

Also included to help you with this is:

A list of the documents you may need to support the statements you make about income, assets and liabilities. Your solicitors will eventually also wish to see these documents which you can attach to your Memorandum of Understanding.

Income Sheet

Name:



You will need to provide the following information as fully as possible. This is the kind of information courts require as well as being necessary to your mediation. If you are unable to reach agreements, this information will still be needed.

You need to base the income on what you received over the last twelve months (weekly can be multiplied by 4.3 to convert to monthly). You can discuss with the mediator if you would both prefer to use all weekly figures.

A1 INCOME FROM EMPLOYMENT & SELF EMPLOYMENT

Salary/Wages (gross) (attach pay slips and most recent P60)	£ _____
Part time earnings	£ _____
Overtime/Bonus/commission (not included in above)	£ _____
LESS	
National Insurance	£ _____
Income Tax	£ _____
Pension Contributions/Private Plan	£ _____
Other - please specify (e.g. Union Sub.)	£ _____

TOTAL DEDUCTIONS:

Net income from employment	£ _____
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OR If SELF EMPLOYED - drawings (provide latest accounts): £ _____

A2 OTHER INCOME

Child Benefit	£ _____
Working Tax Credit (if not paid with wages)	£ _____
Child Tax Credit	£ _____
Child Support from any previous partner	£ _____
Dividends or Interest Received	£ _____
Income from Property	£ _____
Income from Trusts & Shares and any Pension	£ _____
Other income from any source, e.g. fees, casual payments, royalties	£ _____

TOTAL £ _____

LESS likely tax liability	£ _____
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TOTAL NET MONTHLY INCOME	£ _____
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MONTHLY EXPENDITURE

Name: _____

Each of you will need to fill in a separate sheet for your expenditure needs in your own right. If you are not yet separated, fill in the sheet as if you were. The aim is to arrive at a reliable picture of how you could each manage once you are apart.

Try to be realistic, by not over or under estimating your expenses. Most people have to make adjustments to their standard of living when they separate but it is better to make those adjustments when you have all the financial details in front of you.

Any estimates that you make now may well be amended in the course of mediation. Entering figures now does not commit you to that amount; they are starting figures.

To assist you there is a detailed list of the whole range of items most families spend money on. This can guide you to arrive at the broad figures listed under the headings 1-8, that will be the ones eventually used in the mediation process.

The broad totals you need are as follows:

1. Accommodation £ _____
2. Financial Commitments £ _____
3. Utilities £ _____
4. Transport £ _____
5. Households expenses £ _____
6. Personal expenses £ _____
7. Recreational expenses £ _____
8. Children's expenses £ _____

You will find a schedule below setting out all the things you might need to consider when working out these totals.

Check List of Expenditure Items

1. Accommodation	Costs	3. Utilities	Costs
Mortgage/rent/service charge		Council Tax	
Pension/pep/endowment premiums (linked to mortgage)		Water/sewerage rates	
Building & contents insurance		Gas/oil/Solid fuel	
Repairs/decorating/maintenance		Electricity	
Other (please specify)		Telephone	
		Mobile Phone	
		TV licence	
Total		Total	
2. Financial Commitments (list)		4. Transport	
Bank & other loan repayments		Vehicle repayments	
HP & Finance Houses		Insurance/ road tax	
Clubs/ mail order catalogues		Servicing/ repairs & MOT	
Credit & Store cards		AA/RAC/ breakdown	
Pension Contributions (not included on income sheet)		Petrol/Parking	
Other insurance, premiums (e.g. medical, life – specify)		Public Transport	
Any investments or regular savings (e.g. share save)			

Maintenance to previous partner			
Total		Total	

MONTHLY EXPENDITURE (page 2)



Name: _____

5. Household Expenses	Costs	8. Our Children's Expenses	Costs
Food/milk/general house		Child care	
Vet bills etc		Babysitting	
Domestic/window cleaning/ gardening		Nursery/playgroup	
Dry cleaning/laundry /shoe repairs		Childminder/nanny	
TV/video recorder rental		Other (please specify)	
Satellite/Cable/internet subscriptions			
Other (please specify)		Recreation	
		Clothes/shoe	
Total		Clubs/groups	
		Equipment / lessons	
		Pocket money/allowance	
6. Personal Expenses		Other (please specify)	
Clothes (for self)		Education	
Hair/toiletries/cosmetics		Travel to school	
Newspaper/magazine		School meals	
Dental/optician		School trips	
Other health expenses		School Uniform/ sports gear	
Tobacco/alcohol		School & college fees	
Meals at work		Extra tuition	
Presents (Christmas/birthdays)		Further and/or Higher Education	
Charitable giving			
Stationery/postage		Personal Care	
Other (please specify)		Nappies	
		Toiletries/hairdresser	
Total			
		Total	
7. Recreation			
Holidays/outings			
Sports/hobbies			
Cinema/theatre/concerts/video			
Meals out/entertaining			
Other (please specify)			
Total			

Personal Details



Full Name	Date of Birth	Occupation

Date of marriage/civil partnership		
Date cohabitation started		
Date of separation (if applicable)		
Date of the petition (if filed)		
Date of Decree Nisi (if granted)		
Date of decree of Judicial Separation (if granted)		
Date of Decree Absolute (if made)		
If you have remarried or intend to remarry please give the date of your marriage or intended date of remarriage or formed a civil partnership		
Do you live with another person?	Yes	No
Do you intend to live with someone in the next 6 months?	Yes	No

Please set out the full names and dates of birth of any children whom you regard or have treated as part of your family, stating with whom they live

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Please give details of the state of health of yourself and the children

--

C. Assets and Liabilities



Names:

1. The Family Home

Address:

Date of Purchase:

Joint/sole ownership

Deposit: £ _____

Freehold/Leasehold

Purchase price: £ _____

Date of valuation:	1. Current Value:	£ _____
	2. Less mortgage 1:	£ _____
	3. Less mortgage 2:	£ _____
	4. Less penalties under mortgage if sold now	£ _____
	5. Estimated Sales Costs	£ _____
	NET EQUITY:	£ _____

Type of mortgage 1:

2:

Name and address of mortgage company/ies

1.

2.

2. Other properties - land or buildings

Address:

Date of purchase:

Joint/sole ownership

Deposit: £ _____

Freehold/Leasehold

Purchase price: £ _____

Date of valuation:	1. Current Value:	£ _____
	2. Less mortgage 1:	_____
	3. Less mortgage 2:	£ _____
	4. Less penalties under mortgage if sold now	£ _____
	5. Estimated Sales Costs	£ _____
	NET EQUITY:	£ _____

Type of mortgage 1:

2:

Names and address of mortgage company/ies

1

2.

C. Assets and Liabilities



Names:

3. Savings schemes linked to mortgage (endowments/pension/PEP/ISA)

Company	Scheme	Joint/ sole	Date taken out	Maturity date	Estimated maturity value	Sum assured	Current surrender/ transfer/fund value

4. Bank, Building Society, National Savings accounts (If the account is overdrawn include the figures in section 11 below)

Name of Bank, Building Society, Other	A/C No.	Current/ deposit	Joint/Sole	Balance	Date

C. Assets and Liabilities



Names:

5. Stocks, shares & quoted securities

Name of holding	Type of holding	Number/size	Joint/sole	Value	Date

National Savings certificates

Name of Issue	Joint/sole	Nominal amount	Current value

National Savings Bonds, including premium bonds

Type of Bond	Bondholder's no.	Joint/sole	Current value

6. Insurance policies, including those with no surrender value

Name of Company	Policy number	Policy Type	Life assured	Estimated maturity value	Maturity date	Surrender value

C. Assets and Liabilities



Names:

7. Money owed to you

Description of all sums owed to you e.g. in company/business accounts, by family members etc	Joint/sole	Amount

8. Cash over £500 not included anywhere above

Where it is held	Joint/ sole	Currency	Amount

9. Cars, boats, caravans and other vehicles worth more than £500

Description	Joint/sole	Market Value

10. Valuables including furniture, antiques, jewellery, pictures, house contents worth more than £500

Description	Joint/sole	Market Value

C. Assets and Liabilities

Names:



11. Other realisable assets not listed above, eg Unit trusts, business expansion schemes, inheritance in the foreseeable future.

Give details of any other assets not listed above.

INCLUDE (the following list is not exhaustive):

- Any personal or business assets not yet disclosed
- Unrealisable assets
- Share options schemes, stating the estimated net sale proceeds of the shares if the options were capable of exercise now, and whether Capital Gains Tax or Income Tax would be payable
- Business expansion schemes
- Futures
- Commodities
- Trust interests (including interests under a discretionary trust), stating your estimate of the value of the interest and when it is likely to become realisable. If you say it will never be realisable, or has no value, give reasons
- Any asset that is likely to be received in the foreseeable future
- Any asset held on your behalf by a third party
- Any asset not disclosed elsewhere on this form even if held outside England & Wales

Type of asset	Value
TOTAL	

C. Assets and Liabilities



Names:

12. Business interests

Name and Nature of Business	Basis of Valuation	Your estimate of current value	Total amount of any sums owed to you by way of a directors loan account, partnership capital or current account

Complete one page for each business

13. Any liabilities (apart from mortgages) - including credit and store cards; bank overdrafts; loans; tax liabilities, unpaid legal fees, hire purchase etc

Nature of debts and to whom owed	Outstanding amount

14. Capital Gains Tax liability - if any of your assets would attract capital gains tax if they were sold or transferred

Asset	Estimated Capital Gains Tax

C. Assets and Liabilities



Names:

15. Pensions

EXCLUDE:

- Basic State Pension

INCLUDE (complete a separate page for each one):

- Additional State Pension (SERPS and State Second Pension (S2P))
- Free Standing Additional Voluntary Contribution Schemes (FSAVC) separate from the scheme of your employer
- Membership of ALL pension plans or schemes

Documentation required for attachment to this section:

- A recent statement showing the cash equivalent transfer value (CETV) provided by the trustees or managers of each pension arrangement (or, in the case of the additional state pension, a valuation of these rights)
- If any valuation is not available, give the estimated date when it will be available and attach a copy of your letter to the pension company or administrators from whom the information was sought and/or state the date on which an application for a valuation of a State Earnings Related Pension Scheme was submitted to the Department of Work and Pensions

Name & address of pension arrangement

Your National Insurance Number

Number of pension arrangement or reference number

Type of scheme

Eg occupational or personal, final salary, money purchase, additional state pension or other (if other, please give details)

Date the CETV was calculated

Is the pension in payment or drawdown or deferment?
(Please answer Yes or No)

State the cash equivalent transfer value (CETV) quotation, or in the additional state pension, the valuation of those rights

If the arrangement is an occupational pension arrangement that is paying reduced CETVs, please quote what the CETV would have been if not reduced. If this is not possible, please indicate if the CETV quoted is a reduced CETV

Total value of ALL your pension assets: TOTAL

Open Statement of Financial Information

Clients:.....

Mediator:.....

Tick as appropriate:

We confirm our financial disclosure is complete

We confirm our financial disclosure is complete

other than.....

.....

Client Signature

.....

Date:.....

Client Signature

.....

Date:.....

Documents Required to Verify Statements of Income, Assets & Liabilities

Please provide a copy for each of you and one for the mediator(s)

You may need to request some of these details specifically

Income

- ◆ Last three pay slips, or more if irregular income
- ◆ Form P60 (issued to employees giving details of annual gross pay & deductions).
- ◆ If self employed: accounts, tax return and computation and tax assessments for previous 2 years.
- ◆ Income from investments over past 2 or 3 years, e.g. dividends, interest.

Your home(s) and any other properties

- ◆ Valuation of house (estimates can be obtained from 2 or 3 local estate agents).
- ◆ Mortgage: name, address and acc/ref number of building society or other lender.
- ◆ Details of endowment/pension/pep mortgage: date of maturity, value on maturity, current surrender/fund/transfer value of scheme.
- ◆ If rented, tenancy agreement or rent book.

Savings and Assets

- ◆ Bank, building society, savings accounts: provide name, a/c no., and copies of recent statements and pass books showing balances.
- ◆ Certificates of ownership of stock, shares, unit and investment trusts with current valuations.
- ◆ Details, including valuations, of any valuables (e.g. jewellery, antiques) and how they were acquired.
- ◆ Copy of any trusts of which you or your children are beneficiaries.

Pensions and Life Insurance Policies

- ◆ Details of occupational and personal pensions, superannuation schemes, SERPS and AVCs:
Copy of rules of Scheme, and statement showing transfer value of pension, widow(er)s' and death on service benefits and projected value on retirement.
- ◆ Copies of any other life policies: sum assured, date of maturity, current surrender values, and names of beneficiaries.

Maintenance

- ◆ Copies of all court orders, maintenance agreements, or CSA assessment.
- ◆ Details of any regular provision to or from someone else (e.g. deeds of covenant from grandparents).

Debts

- ◆ Credit agreements and loan documents giving details of all money owed either individually or jointly.

Information about All Issues Mediation (AIM)



When two people decide to separate, there are usually a number of other decisions that have been made about such issues as:

- ◆ How to separate
- ◆ What to say to the children
- ◆ Who will live where
- ◆ The distribution of money and property

Mediation provides an opportunity for you to consider these matters together and with the help of a mediator, to decide jointly what you think are the best arrangements for you and your family.

1. How does it work?

A trained mediator will meet with you both for a series of sessions, in which you will be helped to:

- ◆ Make a list of all the matters you wish to consider
- ◆ Collect the necessary information
- ◆ Talk about the choices open to you
- ◆ Negotiate with each other in order to reach decisions which are practicable and acceptable to you both.
- ◆ Discuss how you can consult your children appropriately about arrangements you decide to make.

2. What does the mediator do?

The mediator's job is to act as an impartial third party, helping you to exchange information, ideas and feelings constructively so that you can progress towards joint decision-making. However, the mediator has no power to impose a settlement; responsibility for all decisions remains with yourselves, since you will know better than anyone what is right for your family. What the mediator will not do is advise you about which option is best nor can the mediator protect your individual interests. That is the role of your solicitor and we therefore advise you to engage a solicitor so that you can be told about the personal consequences for you of what you agree.

3. How many meetings will there be?

That depends on the number and complexity of the issues, and the amount of co-operation which already exists between you. However, as a rough guide you should anticipate between four to six sessions of approximately one and a half hours to two hours each.

4. How much will it cost?

Details of charges are given on a separate sheet. If however you are eligible for public funding there will be no charge for mediation. An assessment of your eligibility can be made at the first meeting.

5. Can mediation cover all the issues?

Yes, we offer mediation on everything - children, property, maintenance etc - arising from the break-up of your relationship.

6. Is mediation suitable for everybody?

Sometimes mediation is not the best way for you to resolve your problems. You will have a chance to discuss this in more detail at your first meeting with the mediator.

7. What are the issues concerning the children?

The major decisions affecting the children are likely to be:

- ◆ Where they will live
- ◆ What arrangements will be made for them to spend time with each parent and other relatives.
- ◆ Special provisions, if any, which might need to be made about such matters as education, religion and health.
- ◆ The level of financial support required to meet their needs.
- ◆ How can they be appropriately consulted.

The mediator, whilst understanding that you may well have quite different views on some or all of those matters, will help you build on your relationship as parents so that you can focus more effectively on your children's needs.

8. How will money and property be tackled?

You will be asked to provide details of expected income and spending (as far as this can reasonably be predicted) and details of the value of your assets.

This means:

- ◆ Making a list of all the money you usually earn or receive over a given period of time (weekly, monthly, etc).
- ◆ Making a reasonable estimate of what you would expect to have to pay for in the future including housing.
- ◆ Providing details of any property, savings, shares, insurance policies, pension rights and other capital assets in which either of you have an interest.
- ◆ Identifying loans and debts for which either of you are liable.

9. What about the Child Support Agency?

If you are on certain state benefits, the C.S.A will calculate and collect child support. Otherwise, you can make your own agreements about the support of your children. However each of you has the right to apply for C.S.A at anytime for them to calculate the support that would be due. Knowing this figure may help your decision.

10. Using this information, you will be helped to negotiate on such matters as:

The Family Home - who should live there, should it be sold and, if so, when and how should the money be divided? (In the case of a rented home, should the tenancy be changed or transferred?)

Maintenance and Child Support - how much should each contribute towards the living costs of the children. (and possibly of the adults?)

Possessions - how should these be shared between you?

Future benefits - does one person need to be compensated for the loss of pension rights, endowments, etc?

On all these issues the final outcome will depend very much on your views about:

- ◆ What is "fair" (which may not necessarily mean a 50/50 split)
- ◆ What is realistic
- ◆ What bests meets the needs of all members of the family, particularly the children.
- ◆ How your circumstances might be expected to change in the future.

Information about All Issues Mediation (AIM)



11. A Contract of Mediation

If you both agree to mediation, you will be asked to sign an Agreement to Mediate which includes a declaration that you agree to be open and honest with each other and not do anything which might pre-judge the outcome of the discussion. Either of you is free to withdraw from mediation at any time. The mediator also reserves the right to withdraw from mediation if it becomes clear for whatever reason, that further progress is unlikely to be made through mediation.

12. Is Mediation Confidential?

Firstly, mediation is confidential and secondly, courts are likely to regard the discussions as privileged.

Confidentiality - The agency will not voluntarily disclose to outsiders any information obtained in the course of your discussions without first obtaining your permission (unless it appears there is a risk of significant harm to adult or child or there is a duty to make a disclosure under the Proceeds of Crime Act 2002).

Privilege - What you **say** during mediation cannot later be used in Court as evidence. We will ask each of you to agree that all discussions during mediation take place only to attempt to reach a settlement and are on the basis that they are both confidential and will not be referred to in evidence in any court proceedings or affidavit about the same issue. But facts disclosed during mediation are regarded as open. Any facts provided by either of you during mediation about financial matters will need to be verified with supporting documents. Although these will be strictly confidential they may be used subsequently in court. If an agreement is not reached they can be used by a solicitor as a basis for further discussions.

13. Will we have anything in writing?

Towards the end of the series of meetings, a "Memorandum of Understanding" will be drawn up which is a statement of everything you have proposed during mediation. You will be told that you should consult your solicitor on the contents. He or she will advise you on the personal consequences of what you have jointly agreed. The Memorandum will also state any issues on which you have not been able to agree and which may require further negotiations by your solicitor or perhaps a decision by the Courts. However, the Memorandum will not refer to the way either of you responded during mediation.

The Memorandum itself not legally binding, but is intended for your solicitor to use in preparing a legally binding agreement, where appropriate.

14. Can any arrangements we make now be changed later?

Some Court Orders, particularly those of the "clean break" kind, will have a once-and-for-all effect as far as capital assets are concerned. This is one reason why it is advisable that you have your own solicitor to advise you. Nothing is binding at this stage. Other Orders, such as those relating to the amount of maintenance paid to spouse/children, may be changed at a later date on further application to the Court. The Court may also be prepared to consider an application to change an Order relating to the children if the original circumstances have altered significantly. Where no Court Order has been made about a particular issue, the arrangement may be changed by agreement between the two of you at some later date.

15. Can the Court impose arrangements different from those agreed?

The final authority always rests with the Court. However in practice the Court is unlikely to disregard an agreement freely arrived unless:

- ◆ It is patently unfair to one of you
- ◆ It is clearly not in the children's' best interest

Or

- ◆ The facts on which the discussion was based turned out to be incorrect.

16. What happens if we cannot agree on everything?

You may well have reached a certain level of agreement which can be written down and the areas still outstanding can be clarified. You are then able to instruct your solicitor to negotiate a final agreement on your behalf. Ultimately if you cannot agree, the Court may have to make the necessary decisions.

You will receive a more detailed explanation at your first joint meeting with the mediator, where you will also have the opportunity to raise any other issues or concerns you have about the process.