Mediation Process Map- 4 Session narrative (with pension expert report)

(Please read this with reference to the Mediation Process Map

Timeframe and costs

3 months- approx. £1500 plus vat per person (plus cost of pension report and solicitor support)

Between MIAMs and first mediation session

Following the two separate pre-mediation consultations (MIAMs) the mediator sends you their available dates and times for the first mediation session (building in sufficient time for you to complete your financial forms)

The mediator also sends you a link to the Online Divorce Manual indicating which chapters and sections to read at this stage and which financial documents to complete in preparation for the first mediation session.

These docs include a Financial Booklet (similar to Form E), income/expenditure schedules, Pension forms and helpful guides.

You are recommended to do your best to complete and return these forms. They do not have to be perfect. Since it is not the role of the mediator to verify your financial documentary evidence you are asked to retain your financial evidence ready to provide each other (and solicitors) with copies if requested, after the first mediation session.

As you complete your financial documents, if you need help you can ask the mediator to show you where you can find this in the Divorce Manual. Mediators rarely charge for emails, text and telephone calls with you between sessions, unless agreed beforehand.

Using the Divorce Manual helps you to keep your professional costs to a minimum but it will require you to spend a little more time yourselves, reading and learning about what needs to be done.

If this is an online mediation you return your financial booklets and income/expenditure forms to the mediator (not your financial evidence ie bank statements) and the mediator prepares a first draft Open financial summary spreadsheet to discuss with you and your former partner during the first mediation session. This usually takes the mediator in the order of 1 hour to prepare before the first mediation session for which they usually charge.

If it is a face-to-face mediation, the mediator usually completes a financial summary on their flip chart with you and your former partner in mediation and then prepares their spreadsheet after the first mediation session.

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The mediator will recommend that your read the Divorce Manual chapter all about making a Full and Frank financial disclosure, as you complete your financial documents.

First mediation session

Principles of mediation

At the beginning of the first mediation session mediators usually begin by reminding you of the main mediation principles outlined in the mediation agreement which everyone signs either before mediation (if online) or at the beginning of the first session, if face to face.

Agenda

The mediator then normally checks what both of you would like to use the first session and the mediation process to sort out ie agenda items.

Urgent decisions

Sometimes there are some urgent or short-term decisions to make which do not require a full financial disclosure, which both of you may need to discuss and resolve as soon as possible.

'Full and Frank' financial disclosure

That said, both of you may simply wish to get on with exploring your financial options to try and reach some financial proposals in mediation at minimum cost. If so, the mediator will begin by checking the financial figures you have both provided as the mediator takes you through their financial summary.

This stage of working with you and your former partner to create a financial summary often takes around half the first mediation session (although this can very much depend on how well you both collaborate and communicate with this task).

The main outcome objective of this financial disclosure stage of the process is for you both to feel clear and confident enough with the figures before you feel ready and willing to begin exploring your financial options.

Before you are clear and confident enough you may need to answer a few questions from each other, the mediator and even perhaps, each other's solicitors (following the first mediation session).

You will have a chance to ask each other questions about your figures during the mediation session.

The mediator will note any documents you require from each other, to send each other after the session is over.

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The mediator normally recommends that this list of documents is shared with the solicitors who are invited to add to the lists and add any questions they have so that the clients can gather this information and documentation before the next session.

The mediator may talk to you about the best way for your solicitors to support you as you go through the divorce process and refer you to the relevant chapter in the Divorce Manual about this.

Pension report

If there are pensions and a pension report is likely to be required the mediator will discuss this with you and either work with you both in mediation to choose and help you instruct the pension expert or recommend that you ask your solicitors to help you with this so that an appropriate report can be prepared ready to be discussed during the next or third mediation session. It may sometimes not be possible to discuss your instructions to the pension expert until the second mediation session once you have received all your pension information.

Sometimes, it makes sense to ask a neutral financial adviser to come into the first mediation session to assist you and your former partner with identifying the correct pension information and documents to obtain and how to obtain this as well as helping you to prepare the instruction to the pension expert. Note that this financial adviser might also be the pension expert being instructed to prepare a report.

You are referred to the Divorce Manual chapter about pensions in divorce which should have most, if not all the information and documentation you both need.

You both leave the first session to gather and exchange financial documentation, updating the mediation financial summary from any new information in time for the second mediation session.

Priorities and broad approach

It would be quite usual to have some time during the first mediation session for the mediator to enquire and explore what a mediated outcome needs to achieve for each of you.

<u>The mediator will ask about your financial priorities (things of importance such as future housing and income) and help each of you to be very clear about these with each other because unless the mediator can ultimately help you and your former partner to create a mediated outcome which you both feel has enough of these things in it which are important to each of you, you will struggle to be successful.</u>

There might even be enough time for each of you to broadly set out your preferred approach to various matters such as housing and financial support so that you both leave the first session with a bit more clarity and a ‘To do’ list to be getting on with.

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Divorce

There may also need to be some discussion about the divorce process, especially if these have not yet started so that you can both be clear what needs to happen and who is going to do what to get things started.

You are referred to the Divorce Manual to help you sort out the divorce process for yourselves at minimum expense.

Second mediation session

Interim financial support/maintenance

During the second mediation, in situations where you need to work out who is going to pay for which monthly expenditure items whilst the divorce is ongoing the mediator will work through your income and expenditure items with you.

This could very easily take one mediation session, but it is generally worth doing because the mediator will show you both how to do this for yourselves, if and when maintenance needs to be review in the future, using the 5-stage maintenance calculation process as set out in the Divorce Manual.

You might also use this session to prepare your instructions to the pension expert with the help of the mediator and financial neutral, once you have your pension information.

Before returning to your third mediation session the mediator will recommend that you read the Divorce chapter about how to reach financial agreements in mediation-5 stages.

Third mediation session

By the time you return to your third session you should have all the necessary financial info and documents including details about your borrowing capacities, the pension report and read the relevant chapters and sections of the Divorce Manual about how to reach your own agreements in mediation, so that you can explore your financial options in detail together, with the mediator.

It is quite common to finish the third session with a range of options and ideally some preferred options for you to discuss with your solicitors before returning to the fourth mediation session to finalise matters and reach some proposals.

The mediator will help you explore each option, reality testing these from a range of perspectives (your perspective, your former partner/spouse's perspective, the legal perspective, the children's perspective etc) measured against your priorities (Needs, interests etc), taking into account a range of factors important in law as well as important to

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each of you. This is a crucial part of the mediation process for which clients need to be well prepared and have all the necessary financial information.

Fourth mediation session

Having discussed your options with your solicitors and having returned to a fourth mediation session their may be some final tweaking of you preferred mutual option, checking that it will actually deliver for both of you and the children enough of the things you both set out from the start to achieve, as being important to each and both of you.

The mediator will also ensure that you understand the process required to obtain a final and binding court order through their solicitors and the processes involved with implementing your proposals.

The mediator will ensure that other matters are discussed and proposals reached with regard to:

- What should happen in the event of the death of you or your partner whilst you still have dependent children and what to do with regard to pension death benefits and any insurance policies in this respect.

- Whether there are any future inheritance prospects and the relevance of these, in your particular circumstances.

- The need for Wills and advice in connection with these.

- Who is to pay the costs of the divorce, costs connected with the preparation and obtaining of a financial consent order through solicitors and the cost of implementing the proposals such as pension implementation costs and any property transfer costs.

- Whether your proposals give rise to any tax charges such as Capital Gains tax and who is to pay this.

Final steps

The Mediator completes their final mediated outcome summary having added to this after each mediation session, ensuring that the solicitors have all that they need to be able to prepare a financial Consent order for the Judge.

If you have solicitor it will also have been important for them to have been kept in the loop with the options you are exploring so that they can give you their views and prepare you for each session as you move towards reaching your own financial proposals with your former partner/spouse.

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Your solicitors and perhaps your financial neutral (who helped with your pension report) will have a supportive role to play in helping you finalise everything in terms of implementing your mediated proposals.

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