INTERIM

DRAFT MEMORANDUM OF UNDERSTANDING

William ('Bill') Roberts

- and -

Sheila Roberts

CONFIDENTIAL

Legally Privileged Summary of Proposals

DATED: 10th January 2021

Prepared By:

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Mediator. Solicitor(Ret'rd). Trainer. Coach

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<u>MEMORANDUM OF UNDERSTANDING</u>

<u>Sheila and Bill Roberts</u>

Bill and Sheila are in Mediation with John Hind, Mediator, to help them resolve matters in respect of their future financial arrangements.

This document forms a summary of options discussed and proposals reached in Mediation.

Sheila and Bill have attended 4 mediation sessions held on **17th September, 10th October,14th December 2020 and 10th January 2021**

This document is legally privileged and 'without prejudice'.

It does not record or create a binding agreement between the parties, and any proposals set out in this summary have not been set out with the intention of creating legal relations by the creation of this document.

<u>It is intended to facilitate each of them to obtain independent professional advice, which we have recommended them to do before they take any steps to enter into an agreement, whether through solicitors or informally between themselves.</u>

<u>Unless and until the parties decide to enter into a binding agreement, no such binding agreement exists between them.</u>

The Mediation was carried out in accordance with the professional requirements and the Code of Practice of the Family Mediators Association.

This summary may, of course, be produced to legal advisers upon the basis that it is, and remains, a privileged document.

Andrew and Sahira understand that this Mediation summary may not be produced to a Court.

Background

William ('Bill') Roberts was born 2nd April 1972 and is aged 48. He works as a self-employed IT consultant.

Sheila Roberts was born on 17th August 1974 and is aged 45. She works as a primary school teacher and currently works part-time.

Sheila and Bill began living together in 2001.

They married on 5th May 2004, separating on 1st April 2020.

Decree Nisi was pronounced on 1st September 2020.

Sheila and Bill have two children, namely;

- Angus, born on 1st March 2004, aged 16
- Charlotte, born on 12th November 2008, aged 11. Charlotte has Autism.

The children currently live with Sheila in Orchard Cottage, the home Sheila owns with Bill.

Bill is currently renting accommodation. He moved into rented accommodation in April last year.

Sheila and Bill both have solicitors supporting them through the mediation process.

Matters for discussion

Bill and Sheila wish to use mediation to explore their financial options and reach some financial proposals which meet their financial needs and the needs of the children, in respect of their future housing requirements and ongoing financial support, and which achieves an outcome which they both consider to be fair in their particular circumstances and fair 'in law'.

They have child arrangements in place which they both acknowledged are working well so they do not wish to use mediation to discuss these.

Divorce and separation

Decree Nisi has been pronounced so Sheila and Bill now wish to agree some financial proposals and obtain a final binding financial court order (by agreement) before Decree Absolute is applied for.

Their intention is to obtain a binding financial consent order from the court, based on financial proposals they reach in mediation, before obtaining a Decree Absolute, ending their marriage, as advised by their solicitors.

Child arrangements

Although Sheila and Bill do not wish to use mediation to discuss their child arrangements, they explained to the mediator that whilst the children are living with Sheila at Orchard cottage they are seeing Bill every other weekend and for two overnight stays during each week.

Bill and Sheila acknowledged that, at the moment, these arrangements are work well but are likely to need reviewing in the future, depending on, among other things, their future housing arrangements.

<u>First mediation session dated 17th September 2020.</u>

Values, Interest, Needs

Before beginning the process of preparing a financial summary from the financial statements and documentation Bill and Sheila had brought with them, the mediator asked them to clarify for each other their most important priorities and concerns which their financial proposals will have to meet and overcome in order for them both to ultimately feel that they have reached a fair financial outcome.

The mediator stressed that this was their opportunity to indicate to each other what they would each like the financial outcome to primarily achieve for themselves individually and for the family, setting out their priorities and concerns, revealing their main objectives, (motivating values) needs and interests.

The mediator explained that the main purpose of this stage of the process was to provide them both with a positive and constructive route map upon which to focus their thinking and base their considerations and discussions, when it comes to exploring financial options and constructing a financial outcome for themselves, later in the mediation.

Bill

Bill expressed a frustration that having moved out into rented accommodation about a year ago things do not seem to have progressed much from his perspective.

In the meantime, he is paying his rent and pays most of the household outgoings in respect of Orchard Cottage, a property he jointly owns with Sheila, which, he explained, is putting him under a lot of financial pressure each month, reflected in his increasing debt (see Open Financial Summary)

He explained that he is keen to work with Sheila to decide how to divide their net assets to house themselves in suitable accommodation, providing two comfortable homes for the children to spend time with each of them.

He indicated that he is fully aware of the obligations placed on him by the Child Maintenance Service in terms of ongoing child support and hopes that he and Sheila can achieve a financial clean break.

He expressed a concern about the instability of his future income since it is currently based on two contracts with large companies who are in financial difficulties and the economic situation in the UK is tough at the moment for him.

Bill explained that retaining as much of his pension is importance to him having worked hard during the last 28 years towards his aspiration of retiring at 55 years of age.

Sheila

Although Sheila expressed the desire to remain at Orchard cottage with the children she also expressed a willingness to consider the possibility of having to sell this, highlighting the importance of carefully managing the impact that a major disruption of this nature might cause to Charlotte in particular, who needs and thrives on routine and consistency.

Sheila also expressed her concerned about not being able to afford a three-bedroom property in Oxford, close to the children's schools, bearing in mind her part-time income and inability to raise a large mortgage or afford the monthly mortgage payments.

Sheila expressed anxiety about the current uncertainty she is feeling and is hoping that mediation will bring with it a great deal more clarity so that she and the children know what kind of property she will be able to afford to live in and how much financial support she can expect to receive from Bill and for how long.

She also explained that her mother sadly passed away four years ago and left her £150,000 in her Will. She and Bill used £100,000 of this to reduce their current mortgage, doing so about six months before they separated. Sheila explained that she would like this taken into account when she and Bill discuss how their capital is to be divided between them.

Having broadly set out and clarified their priorities and concerns for each other and the mediator, Sheila and Bill move to the next stage of the process helping the mediator to complete the first draft Open Financial Summary upon which to base their discussions and explore their financial options, during the mediation process.

The mediator explained that mediation should give them both the opportunity to revisit their priorities and concerns, when they explore their financial options, focusing on the factors they would like each other to take into account during their joint decision-making process, as they construct a financial outcome which must ultimately feel fair enough to them both and meets theirs and the children's financial needs if mediation is to be successful.

Open financial summary

Prior to mediation starting Bill and Sheila provided the mediator with their completed Financial Disclosure Booklets (similar to Form Es used for court proceedings) having completed these using the chapter in the Compass Divorce Manual to help them- Financial agreements in 5 stage, in mediation.

They also both confirmed that they had read the following chapters of the Manual

Full and Frank Financial Disclosure – This sets out in detail their financial disclosure obligations and responsibilities including the fact that it is not the mediator's role to check the accuracy of the information they provide.

Solicitor supported mediation- This sets out in detail how their solicitors will be able to support them at each stage of the mediation process increasing their chances of succeeding in mediation.

Having established what Sheila and Bill wish to use mediation to sort out (see Matters for discussion and Priorities/Concerns paragraphs above) they began by assisting the mediator to complete an Open Financial Summary of their assets, liabilities, monthly incomes and expenditure, enabling them to work together effectively with the mediator to produce the first draft of this document.

During this process Bill and Sheila were able to have a discussion about the financial figures and facts, giving rise to a list of information and documentation still required from each of them before it is possible to complete and agree an open financial summary (see task list below) and go on to fully explore their financial options (See options below).

Also, the process of completing the open financial summary with the mediator gave Sheila and Bill the opportunity of highlighting and clarifying for each other, and the mediator, some important background to particular assets and liabilities which they each believe to be important and relevant to their decision-making process when it comes to considering how to divide their net assets (see financial notes and options paragraphs below)

It is proposed that Sheila and Bill send each other their Financial Booklets after their first mediation session so that they can reconcile for themselves the information in the Open Financial Summary against the information in their Booklets and supporting documents.

Financial notes

See the notes column of the Open Financial Summary spreadsheet for a summary of the following points:

Orchard Cottage

Sheila and Bill had worked together before their first mediation session to obtain a broad selection of property values/appraisals for Orchard cottage based on which they both expressed confidence that this property would sell for approximately £950,000, if placed on the open market today.

Having read the Compass Divorce Manual chapter on reaching financial agreements in mediation they understood the distinction between an estate agent market appraisal and a more detailed surveyor's valuation.

That explained that, for the moment, they were prepared to base their financial discussions and explore options based on the estate agent appraisals keeping open the option of obtaining a 'joint single experts' report from a neutral surveyor valuer instructed by them both, with the help of the mediator, or through their solicitors, should this need arise.

Sheila and Bill explained that the current Santander mortgage on Orchard cottage is on a fixed term until the 1st November 2020, for another two months, and should they redeem the mortgage before this date they would have to pay a £10,000 redemption penalty.

5 Monks Street

This is a rental property bought in Bill and Sheila's joint names with a buy-to-let mortgage.

The mortgage is a repayment mortgage on variable interest rate terms.

The property is being let on a six-month Assured Shorthold tenancy agreement, with four months left to run.

Bill explained that if this property were sold today his accountant has told him there would be a Capital Gains tax bill to pay of £8000 reducing the net equity figure to approximately £8000.

<u>It is proposed that Bill provide a letter from his accountants to this effect</u> (See task list below).

Bank accounts

There is about £46,000 in Bill's Lloyds business savings account earmarked for Corporation tax due for the year 2019/20 and some VAT bills coming up.

There is also a Lloyds savings account in Sheila's name with £40,000 in it which are the remains of her monies inherited on her mother's death, four years ago.

Sheila emphasised how important it is to her to ensure that she is able to retain these monies. The mediator suggested that she discuss this with Bill when it comes to looking at their financial options.

<u>It is proposed that Sheila and Bill provide each other with statements for the bank accounts in their sole names before the next mediation session.</u>

Investments

Sheila and Bill explained that they have been paying money into a Santander ISA account for the children which currently holds £22,000. They questioned whether this should appear in the open financial summary.

The mediator explained that for the sake of completeness it ought to go into the schedule although noting the fact that these monies have been invested for the children's benefit with the intention of ring fencing these monies for this purpose when it came to exploring their financial options and deciding what is to happen to these monies.

There is an AXA joint lives policy taken out to cover the existing Santander mortgage. Sheila and Bill produced a policy schedule confirming that this is a joint lives policy with a sum assured of £150,000, covering them for another seven years. They acknowledged the need to discuss who is to continue paying the premiums when it comes to looking at their financial options (see below)

Sheila and Bill were both satisfied that they did not need to see any additional evidence relating to these assets.

Cars

Sheila and Bill each have a car which they had both valued using Parker's guide. They both indicated that they were satisfied with these valuations.

Personal belongings

Until they have made a decision about Orchard cottage they indicated a preference not to go through a process of identifying and valuing personal belongings with a view to deciding how they are to be divided.

They both indicated the hope that they would be able to divide these for themselves on a sensible and constructive basis when the time comes.

The mediator explained that the process of deciding how to divide household and personal belongings ought to take place before the final financial order is made by the court since any dispute after this date could not be dealt with by the court since the likelihood is that their entitlement to make any claims against each other for personal and household items will have been dismissed by an appropriate clause in the financial consent order (They acknowledge the need to discuss this with their solicitors when it comes to the order being prepared)

Liabilities

Sheila and Bill both confirmed to the mediator that most of the liabilities in their names (apart from the Corporation and VAT tax liabilities) have arisen due to an excess of their monthly expenditure over their income, highlighting, in their minds, the need to finalise a financial settlement as soon as possible addressing the questions of how these liabilities are going to be paid and by whom and how much they will each need every month to pay their ongoing monthly outgoings.

Pensions

Sheila and Bill had both sent Form P to their pension schemes and received their information. They confirmed that they had read the Divorce Manual chapter on pensions in divorce.

Bill has a self-invested personal pension (SIPP) with Citibank with a transfer value of £706,000 dated 1st September 2020. He produced an up-to-date transfer value to this effect which was seen by Sheila and the mediator.

Sheila has a Teachers pension with a cash equivalent value of £84,000 dated 3rd August 2020. She also produced an up-to-date cash equivalent value to this effect.

For the sake of completeness, the mediator recommended that she and Bill obtain the capital values of any Second State pension (otherwise known as Additional state pension) they might have earned during their working lives, signposting them to the Compass chapter in the Divorce Manual on pensions in divorce and specifically form BR 20 to complete and send to The Pension Service.

Sheila and Bill are aware of the need to discuss instructing a pension expert depending on the options they wish to discuss. See options below.

Bill's IT consultancy (Private Ltd Company)

Sheila and Bill both confirmed that they had read the Divorce Manual chapter on Divorce and Business valuations and watched some of the videos. They are also aware of the need to take some legal advice on the information needed and approach to take in respect of Bill's business interest although Bill expressed the view that his business has no capital value.

He explained that he had set it up as a Company with him as the sole Director and 100% shareholder for tax efficiency reasons.

Bill produced the last three company accounts for the years 2016/2017, 2017/2018, 2018/2019 and tax statements for the same period confirming his salary, dividends and profits for this period.

He also produced draft accounts for the year 2018/2019 confirming his salary, dividends and profits for last year. See open financial summary, income section.

Most recent accounts show a £40,000 business capital in the business savings accounts. Bill explained that this is earmarked for its corporation tax for 2018/2019 and his VAT bill for the first quarter of this year.

Bill's accounts confirm that he is the sole director and 100% shareholder of this private company and that the only assets on the comely balance sheet of things such as this computer, mobile phone and suchlike. The company does not own any premises.

It is proposed that Bill provide Sheila with the documentation he brought with him to mediation so that Sheila and her solicitor can reassure themselves that this company does not have a capital value.

Indeed, Bill emphasised that he currently carries out work for a few large companies going through difficulties and may well go into liquidation in the next six months or so. He explained that he could not reveal which companies for confidentiality reasons.

Incomes and monthly expenditure

Sheila and Bill had completed their income and monthly expenditure schedules based on the present situation, clearly showing the excess of their monthly expenditure over their incomes, primarily arising due to the fact that Bill is currently paying rent of about £1500 per month as well as most of the basic items of expenditure on Orchard cottage.

Towards the end of the first mediation session Bill and Sheila decided that, as long as matters progressed very quickly during mediation, there was little point spending too much time considering whether any adjustments are to be made to the present 'interim' situation in terms of how much Bill pays, simply noting that their combined expenditure exceeds their combined income leading them both to having to borrow more as time goes by.

Therefore, they both concluded that their priority is to first work out how their capital is the be divided so that they know what properties they will be living in and are then able to base an estimate of their monthly expenditure schedule on this fact.

They both indicated that before the next mediation session they will read the Divorce Manual chapter on reaching maintenance agreements in mediation in order to prepare themselves for this discussion.

During the next mediation session, they wish to focus on the housing options available to them during the next mediation session.

In the meantime, at the end of the first mediation session, the mediator summarised for them both, their tasks to completed before the next mediation session.

Task lists

Bill

1. To obtain and provide Sheila by next mediation session:

    a. a letter from his accountant setting out an up-to-date Capital Gains tax calculation assuming a sale forthwith of 8 Monks Street.
    b. a letter from his accountant with an estimate of his up-to-date Corporation tax liability and any monies owing in respect of VAT.

2. To send form BR 20 to the pension service, as soon as possible.

3. To obtain and bring to the next mediation session a range of property particulars of suitable properties with a realistic price range given the net assets available and likely borrowing capacities (see below), enabling Sheila and Bill to explore a range of housing options during the next mediation session.

4. To obtain from an independent Financial Adviser, and provide at the next mediation session, evidence of borrowing capacity to include a range of borrowing up to the maximum available on a variety of terms, based on Bill's income, including interest only and repayment terms, setting out the monthly cost of these options.

5. To obtain from AXA Life a schedule setting out projected maturity proceeds and terminal bonus and provide this at the next mediation session.

6. To obtain and provide before the next mediation session update statements of all bank accounts in sole names whether current or savings, for the last 12 months, to support a discussion during the next mediation session about ongoing financial support (maintenance).

7. To obtain and provide the next session update credit card statement and DFS loan redemption statement.

Sheila

1. To send form BR 20 to the pension service, as soon as possible.

2. To obtain and provide at the next mediation session a range of property particulars of suitable properties with a realistic price range given the net assets available and likely borrowing capacity, enabling Sheila and Bill to explore a range of housing options during the next mediation session.

3. To obtain from an independent financial adviser, and provide at the next mediation session, evidence of borrowing capacity to include a range of borrowing up to the maximum available on a variety of terms, based on Bill's income, including interest only and repayment terms, setting out the monthly cost of these options.

4. To obtain and provide before the next mediation session update statements of all bank accounts in sole names whether current or savings, for the last 12 months, to support a discussion during the next mediation session about ongoing financial support.

5. To obtain and provide for the next mediation session update credit card statements.

<u>Second session of mediation dated 10th October 2020.</u>

Sheila and Bill returned to their second mediation session having obtained all the documentation and information set out in their task lists, agreed at the end of their first mediation session.

They helped the mediator update their open financial summary which they both agreed reflected an up-to-date and full picture of their current financial circumstances ('a full and frank financial disclosure')

They again confirmed that they had read the chapter on full and frank financial disclosure in the Compass Divorce Handbook and fully understood their obligations and responsibilities in this regard.

Also, prior to this mediation session, they had read the chapters on how to reach their own maintenance agreements and financial agreements in mediation and acknowledged that they felt equipped to explore a full range of financial options during the course of the next two mediation sessions, in an attempt to reach a fair financial outcome.

For the sake of completeness, they confirmed that they had also skim read the chapter on pensions and divorce in the Compass Divorce Handbook acknowledging that they were now familiar with their options in this regard and the need for a pension expert.

During their second mediation session they indicated a wish to primarily focus on their future housing options before shifting their focus to the question of ongoing financial support and how this might be affected by the choices they make in relation to their housing options.

Having spoken to their solicitors they both indicated the likelihood of needing the pension expert to calculate what division of their pensions will give each of them the same pension benefits on retirement based on the current pension values. That said Bill expressed a hope to explore options leaving him with more of his pension than half.

So far as Bill's business is concerned Sheila confirmed that, having spoken to her solicitor, she is satisfied that there is no need to obtain a formal valuation of this business, preferring to focus on the maintainable and sustainable income this business produces for Bill which is more likely to be relevant to the question of ongoing financial support she and the children are likely to need for themselves.

Factors influencing thinking and approach.

Before embarking on exploring their options in detail, Sheila and Bill highlighted for each other and the mediator the factors primarily influencing their thinking and decision-making process, in addition to the ones highlighted during the first mediation session as follows;

1. Sheila again stressed the importance of specifically taking into account the £100,000 from her mother's inheritance which had been used to reduce the Santander mortgage 6 months before she and Bill separated as well as the remaining £40,000 currently in her Lloyds savings account representing the remains of these monies.

2. Bill was keen to stress the instability of his business income and the fact that all his savings are already earmarked for tax purposes.

3. Bill also again stressed importance to him of retaining as much of his pension as possible even if it means Sheila receiving more than half of the Orchard cottage 'net sale proceeds' to house herself.

4. Sheila explained her belief that she had sacrificed her main career prospects to raise two children which is why she now earns about £23,000 gross per annum and is only able to work part-time. She expressed a worry about her future earning capacity and standard of living.

5. Sheila also stressed that Charlotte requires a great deal of attention and will continue to need this amount of attention for the foreseeable future, limiting Sheila's earning capacity which is unlikely to change very much.

6. Sheila also highlighted her concerned that she has only been able to build a relatively small pension of £80,000 over a 15-year career as a teacher and is therefore concerned about her retirement prospects.

7. Bill acknowledged that Charlotte is likely to be dependent for the foreseeable future and that he and Sheila differed in their views about whether Sheila could work more hours and her capacity to increase her income and borrowing capacity.

8. In terms of housing, Sheila explained that she would really like to remain in Oxford within the childrens' schools catchment area. Bill also expressed the desire to remain in the Oxford area and buy a property where the children can spend time with him.

Having again highlighted their priorities and concerns (values, interests and needs) the mediator helped Sheila and Bill focus on how they might work together, exploring how to divide their net capital assets to meet their housing requirements, overcoming as many of their concerns and achieving as many of their priorities, as possible, in the hope that they are able to reach a financial outcome during their 3rd or 4th mediation session.

Housing options

Having agreed an Open Financial summary Sheila and Bill were able to spend the majority of the second mediation session working through their housing options with the mediator, based on the information and evidence they had obtained and provided each other with in respect of their borrowing capacity and future housing needs.

Although they discussed a number of options and sub-options they spent most of the time focusing on the following two options;

Option 1

This option is set out in Excel spreadsheet format. See Option 1 (second mediation session)- without prejudice

This option is based on the main assumption that Sheila needs a three-bedroom property in Oxford within the children's school catchment area which is likely to cost in the region £650,000.

Therefore, this option envisages Sheila receiving the first £650,000 of the net sale proceeds of **Orchard Cottage** as well as retaining her Lloyds savings of £40,000, on the basis that these savings are inherited monies.

Bill would receive the balance of the net sale proceeds of £110,000, assuming that Orchard Cottage sells for the predicted price of £950,000. Bill would use this as a deposit to buy himself a property for about £500,000 raising a mortgage of around £400,000.

Sheila and Bill did not discuss, during the second mediation session, how this division of the net sale proceeds might differ if Orchard cottage sells for less than £950,000.

5 Monks Street would be transferred to Bill, subject to the mortgage and any Capital Gains tax liability, giving him an net equity of £8000.

He would also retain his **business savings** accounts of £46,000, earmarked to pay his Corporation tax and VAT.

Sheila and Bill would retain their **cars** and pay off their own **liabilities** with their respective shares from the net sale proceeds of Orchard cottage, should they wish to do so. This option envisages that they both pay off their liabilities, reducing their monthly expenditure.

Due to the imbalance in division of the Orchard cottage net sale proceeds this option envisages that Bill and Sheila retain their own pensions with Bill retaining his pension of £706,000 and Sheila retaining her pension of £80,000.

When reflecting on this option, Bill calculated that, after paying his liabilities of £75,000 he would have £114,000 as a deposit to buy himself a property for around £500,000, requiring a mortgage of approximately £400,000 which, he indicated, was too much especially given the volatility of his consultancy income.

From Sheila's perspective, although this division of assets would enable her to buy a three-bedroom property in the area she wished to live, for approximately £650,000, mortgage free, it left her very concerned about her retirement.

In addition, Bill and Sheila were unable to reach any conclusion about the level of Sheila's need for financial support (spousal maintenance) for herself (distinguished from child support). Sheila indicated a preference for financial support for herself (spousal maintenance) for her lifetime on the basis that she expects Charlotte to be living with her and dependent on her, for the rest of her life.

So far as child support was concerned, Bill and Sheila had used the Child Maintenance Service calculator to calculate child maintenance.

In addition, as part of this option, they both indicated a willingness to continue contributing equal amounts to the Santander ISA to cover any capital expenditure for the children including financial support for Angus, if he goes to university, in two year's time.

Sheila and Bill continued discussing and working together with the mediator, exploring a range of other options including the following option which they discussed in the second half of the second mediation session, taking into account the various factors they highlighted for the mediator, at the beginning of the second mediation session.

Option 2

This option envisages Sheila receiving the first £550,000 of the Orchard cottage net sale proceeds with Bill receiving the balance of £210,000, assuming that Orchard cottage sells for the predicted £950,000.

Bill and Sheila both indicated that this was not as much as they were each hoping for but were willing to work with these figures to see whether it was possible to house themselves in suitable accommodation.

For Bill, after paying his liabilities, he would have a lump sum of £214,000 as a deposit, requiring a mortgage of about £300,000 which was more than he originally intended.

However, having obtained his mortgage figures he expressed a willingness to extend his borrowing if it meant that he and Sheila could reach a final settlement and avoid the costs of court.

He explained that he would probably look at a part repayment/ part interest only product in an attempt to keep his mortgage payments as low as possible and extend the term for as long as possible. He was working with his Financial Advisor.

Before deciding, Bill indicated that he wished to look at how a mortgage of this size will affect his monthly expenditure and his obligations in respect of ongoing financial support for Sheila and the children, to be discussed during the next mediation session.

Sheila had discovered from her financial adviser that she could raise a small mortgage of between £50,000 and £100,000 on either an interest only or repayment basis although she had to consider carefully whether she could afford this and how this might affect the maintenance figures she and Bill still need to discuss during their 3rd mediation session.

She acknowledged that this additional borrowing would mean that she could buy herself the property she had her eye on in the Oxford area, for between £600,000 and £650,000.

<u>For this option, Sheila and Bill worked on the basis of an equality of capital division, including the pensions, on the basis that Sheila is likely to receive spousal maintenance for herself as well as ongoing child support, and she and Bill have a need for a similar sized property where the children can stay with each of them.</u>

On this basis, and to achieve equality, treating the pension as cash assets, this option envisaged Sheila receiving a pension sharing order of 16% in respect of Bill's pension, giving Sheila a pension pot, including her own pension cash value, of £205,000.

Bill indicated that this is not at all what he first envisaged in respect of his pension, hoping that he would not have to share it. Sheila indicated that she was still concerned that this would not provide sufficient income for her, in her retirement.

So far as pensions are concerned, having read the chapter on [pensions and divorce] in the Compass Divorce Manual, Sheila and Bill were well aware of the various pension options available to them, including pension sharing and pension offsetting and also the possible need to take into account the fact that Sheila's pension is a final salary scheme (Defined Benefits scheme) whilst Bill's pension is a private pension scheme (Defined Contributions scheme) (see divorce Handbook chapter on pensions and divorce) However, to do so, they also recognised that this would require the services of an Actuary or specialist pensions trained IFS.

Having also discussed their pension options with their solicitors they concluded that they had no option but to instruct a pension expert to assist with their pension options.

As in option one, Bill and Sheila reached the same conclusion in respect of ongoing Child Support and their willingness to contribute equally to the AXA ISA in terms of capital payments for the children.

As the second mediation session came to an end, it left Sheila and Bill having to reflect on option two above between now and the third mediation session and prepare their expenses schedules on the basis of option two, acknowledging that this option was their preferred option.

Next steps

Bill and Sheila are to read the Compass Divorce Manual chapter on reaching maintenance agreements in divorce before completing their monthly expenses schedules based on housing option two above and any other options they might wish to explore during the second mediation session.

They are also to ask their solicitors to instruct a pension expert to prepare a report setting out a variety of offsetting calculations comparing what it might mean in terms of Sheila's pension share if she receives more than half of the property net equity to house herself and what pension income these pension shares would give her on retirement so that she and Bill can assess whether these pension share options are likely to meet their needs on retirement and result in a fair division of all the assets, both pension and non-pension assets given the scenario that Bill is to pay Sheila financial support for herself as well as their daughter for the foreseeable future.

(Note that the mediator gave Bill and Sheila the opportunity to prepare instructions to the pension expert with the mediator in mediation upon which they could then take advice from their solicitor. They decided that they would prefer to use their solicitors for this purpose having read the Divorce Manual chapter on solicitor supported mediation)

Signed:

John Hind LLB. FMCA. CMC reg

Dated: 2021

Clients are reminded of their right to seek independent legal advice on all matters raised in Mediation and outlined in this Mediation Summary