



## **WHAT IS A MEDIATION INFORMATION AND ASSESSMENT MEETING?**

### INFORMATION SHEET

**A mediation information and assessment meeting (often called a MIAM) is a meeting with a specially qualified family mediator the aim of which is:**

- (i) To explain to you the alternatives to the court process available to separating or divorcing couples. Those alternatives include mediation, which is a voluntary process, involving qualified and impartial mediators who provide neutral information about clients' legal and financial options, but not advice on their 'best interests'.
- (ii) To give you an opportunity to decide whether going to court would be the best way of resolving the issues surrounding your relationship or marriage breakdown (e.g. children, property and financial issues).
- (iii) To explore whether mediation would be a safe and effective alternative to litigation in your particular circumstances.

Every client who expresses an interest in mediation begins the process with an information and assessment meeting. In addition, since 22 April 2014, almost all divorcing and separating couples in England and Wales who want to use the court process to resolve any disagreements about children or money must prove that they have made a referral for a MIAM first. You cannot issue an application at court without either (a) a record of a MIAM referral having been made or (b) claiming one of the specific exemptions explained in the form. If there has been a referral for a MIAM, the mediator has to sign the court application form. The court will check whether any other exemption is validly claimed and will usually require that you attend a MIAM if no exemption in fact applies. A judge may also choose not to hear a case until both people have shown that they have considered mediation. This means that, even if you are quite sure that mediation or one of the other alternatives to court is not for you, attending a MIAM will help you avoid unnecessary delays whether you are the person who is applying to the court, or the other person. Far more positively, the meeting gives you a chance to decide, with professional assistance, how best to conduct your separation or divorce in the interests of yourself and your family.

You should advise your solicitor, if you have one, that you are attending an initial meeting. If you decide to progress to mediation, you should inform your solicitor of the appointment of a mediator. It is very helpful for you to obtain advice from a legal adviser during the mediation process.

The following terms provide the basis for initial meetings conducted by Lesley Kushner. Please read the terms of the following agreement with care. If you have any questions or queries please raise these with your mediator before proceeding. Your mediator is a member of the Family Mediators Association (FMA). You can find more information about FMA members on the FMA website at [www.thefma.co.uk](http://www.thefma.co.uk).

### **The Process**

Your meeting will be conducted by a mediator authorized by the Family Mediation Council to conduct MIAMs and to sign the relevant court application form confirming that a MIAM has

taken place. If, at the end of the process (including any meeting with your former partner) either you or the mediator decides that mediation is not a good way forward, you can ask the mediator to sign your court application form.

It is usual for these meetings to be conducted on an entirely separate basis but, even if you elect for a joint assessment meeting (if offered by the mediator), there will be a separate, private session with you for part of the meeting. This will involve you and the mediator discussing your personal situation on a confidential basis without your former partner in the room. Any information you give the mediator during this stage or in a separate meeting will be kept confidential and will not be shared with your former partner or anyone else except for any specific matters that you agree with the mediator can be shared. There are however some important exceptions to the mediator's duty of confidentiality and these are listed in the section below.

During the meeting the mediator will provide information about the options available to you to resolve the issues around your separation and will discuss with you the advantages and disadvantages of each option. The mediator will also ask you questions and make an assessment to decide whether or not mediation might be a suitable way forward for your family in your own particular circumstances.

The mediator may decide that mediation is not a safe and/or effective option in your particular situation. If this happens, the mediator will sign the form to confirm that you have attended a MIAM but that mediation is not going ahead. The mediator may decide that mediation would be a safe and effective option in your particular situation. If that happens it is up to you and your former partner to choose whether to try mediation or not. Mediation is always voluntary. You are required to attend a MIAM before issuing a court application but you are not required to mediate. That is a decision for you both. If you decide that you don't want to mediate then the mediator will sign your court application form to confirm that you have attended but that mediation is not going ahead.

#### **Exceptions to confidentiality**

1. Where any person (particularly a child) is at risk of harm the family mediator has a duty to contact the appropriate authorities.
2. In common with all other relevant professionals, the family mediator may be required to disclose to the appropriate government authority information with regard to the commission of any relevant, previously undisclosed, criminal offence. The mediator may also be under a linked obligation to make such disclosure without informing you and may have to discontinue the meeting without further notice.
3. Exceptionally, the family mediator may disclose personal data in connection with the alleged or established commission of an unlawful act.
4. The family mediator is a 'processor' of personal data for the purposes of the Data Protection Act 1998. You consent to us processing your personal data for the purposes of this Agreement to Mediate. You understand that this includes our retaining and storing your personal data for as long as is necessary in connection with this Agreement. The mediator may retain data for research and statistical purposes but on the understanding that if used for this purpose all identifying details will have been removed.
5. Our quality assurance standards require that we monitor our mediation files. Periodically, our practice supervisors may have sight of files, but access is strictly controlled and on a similarly confidential basis.
6. The file may be considered by any complaints handler in the event that you make a complaint about your initial meeting. That will not extend to any parts of the file concerning your former partner.

**Charges and payment terms for the initial meeting**

Fees are charged separately per client. Each Assessment Session costs £100.00

**Concerns and Complaints**

Our practice is governed by the Family Mediators Association (FMA), and we comply with the FMC Code of Practice. Copies of this Code are available on request, and can also be found on the FMA and FMC websites. We have a complaints procedure, a copy of which may be obtained from us. Any concern you may have as to our practice should be raised with us in the first instance and thereafter, if unresolved, in writing to the Family Mediators Association. In the event of a written complaint, you agree to the release of your file to any complaints handler.

**By attending the mediation information and assessment meeting, you agree to the terms set out here.**