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# Alternative Dispute Resolution

## What and How...

	Mediation	Collaborative Law	Traditional Court based approach
What is it?	An independent qualified mediator works with the couple to help them come to a mutual agreement.	Collaborative Law is a process whereby spouses/partners agree to resolve all issues between them outside of court proceedings.	An application is issued at the court so that the court has an active role in managing the timetable and trying to bring about a resolution of the issues between the parties.

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How does it work?	Usually one mediator sees both clients together and helps them to resolve any areas of conflict in relation to their children or finances. It can be used for discrete issues or to deal with all aspects of the legal dispute. All discussions are "without prejudice" and cannot be relied on outside the mediation process. However, if the couple cannot agree, documents created and financial disclosure provided can be transposed into court proceedings to avoid duplication.	The clients and the lawyers sign a participation agreement confirming that they are committed to resolving all issues without reference to the courts, and if a court application is made by either party, both lawyers must cease to act. All key negotiations and decisions take place in "four-way" meetings where clients and collaborative lawyers are present. Clients can have access to financial advisers, counsellors and other professionals schooled in the process to assist them in reaching lasting solutions	A timetable is fixed by the court which sets various deadlines for disclosure of information and documentation relating to finances. Both parties and their solicitors must comply with the court deadlines and attend court hearings to try to settle the case. If no agreement can be reached between the parties there will be a final hearing at which the judge will hear evidence and give a judgement.

## What and Who ...

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<b>What are the advantage?</b>	Mediation can work at the pace of the individuals involved. Each party is involved at each stage of the process so this promotes transparency and accountability.	The emphasis is on generating options and on clients finding their own solutions within a legal framework. It can help the parties to stay on better terms and maintain channels of communication afterwards.	The court is actively involved in case management. Many cases settle without a final hearing.

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<b>Who does it suit?</b>	Mediation suits those who wish to minimise conflict in the interests of the couple and any children. Mediation suits any couple who wishes to have the assistance of one independent person to resolve any issues between them at any stage in their relationship.	Collaborative law suits those who wish to put an emphasis on generating options rather than conflict and on finding their own solutions within a legal framework. Collaborative Law suits clients who wish to avoid the trauma and uncertainty of legal proceedings and wish to play a greater role in finding their own solutions. The process suits those who wish to have more control over the process and an opportunity to be more creative and flexible in terms of outcomes/ solutions	The court approach suits couples who need to have a clear timetable and court deadlines. The court will have an active role in case management. This approach may suit a situation where one of the spouses / partners feels they have an unequal relationship with the other spouse/partner

## How and What...

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How long does the process take?	Provided Mediation is entered into in good faith, the process can be faster and less acrimonious than court proceedings. Often several meetings are needed to reach a conclusion.	There will be an initial meeting between the client and the Collaborative Lawyer followed by at least 4 "four-way" meetings. There will be additional meetings in between. The pace is dictated by the participants and can vary from case to case.	The first stage (financial disclosure) takes approximately 14 -18 weeks. This can be shorter by agreement. It is then usually another 3 months (possibly longer in London) to the Financial Dispute Resolution stage. If no settlement is reached at the FDR, it could be 6 months or longer until a final hearing is listed.

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What are the costs?	A mediation session is charged at an hourly rate per person. If an agreement is reached, there would be the cost of drafting a Memorandum of Understanding.	Collaborative law is not always a cheaper alternative to legal proceedings. However, participants have found that it is less expensive than fully contested court proceedings. There will be at least 4 "four-way" meetings lasting on average 60 - 90 minutes, as well as preparation and "two-way" meetings (client and own lawyer or lawyer and lawyer)	The cost is dependent upon the level of co-operation between the parties and their solicitors. The costs are front loaded because lengthy financial statements have to be completed before any negotiations can take place. Barristers will usually be instructed to appear at court hearings and this will increase the costs. If the case proceeds to a fully contested final hearing, the costs will be very significant.

## Meet the team

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