

The route to a settlement

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You and your spouse have decided to separate and divorce. You can apply for your divorce directly using the Gov website. The divorce can be applied for by one party solely, or by both parties jointly. Once the divorce application is issued, and the other party (if applicable) has responded you will be within the 20-week cooling off period before you can apply for your Conditional Order, which is the mid-way point of your divorce.



As soon as possible you should start collating your financial documentation and disclosure. Even in a case in which a settlement is agreed at this early stage, each party will need the Cash Equivalent Value of their pension, these can take up to 4 months to receive, so apply early.



You may decide to seek some legal guidance and clarification on how the division of the matrimonial pot might be approached. Your legal consultant will be able to advise you of the relevant factors in law, and apply them to your case, to give you an overview of your position, providing you with information and knowledge. Your legal consultant will also be able to assist you with related queries and concerns, such as living arrangements pending divorce, or arrangements for your children. As with any legal service provider, check their website and expertise before instructing them, make sure you ask them questions about the cost and process and be sure you're comfortable before you proceed to pay.



Get in touch with a mediator and self-refer. Do some homework, look at the companies' reviews, policies and charges and find a service you feel suits you. Look for mediators who are accredited and provide a good level of information and explanation of the process. A well-trained mediator will assess whether mediation is suitable for you and explain the next steps. You may be eligible for free mediation through legal aid (legal aid for mediation is different to legal aid for court) or via the government's voucher scheme. Check with the mediation service on what they can offer you.



Engage within mediation sessions, whether this is in-person, online, together with your ex or by way of shuttle mediation (a process in which your mediator will go back and forth between you and your separating spouse). You can resolve finances and childcare arrangements through mediation.



At the end of the mediation process, your decisions, proposals and agreements will be recorded in writing within a summary or memorandum. Remember, at this stage the settlement agreed upon within mediation is not binding or enforceable.



Contact a legal consultant who can revise the summary or memorandum provided to you by your mediator, into a Final Financial Remedy Order. This Order can comprise a range of recordings, undertakings and protective clauses, to make sure you have the benefit of full enforceability if anything goes wrong in the future.



Once the Final Financial Remedy Order is signed by both parties, as long as you have received your Conditional Order from the Court, you're ready to send it to the Court. You must also file two further documents, a D81 and a Form A, your legal consultant can draft these for you. If you are sharing pensions in any way a Pension Sharing Annex must also be sent.



Your Final Financial Remedy Order will be considered by a Judge. A Judge will look over all documentation filed and apply the relevant legislative factors to your case to ensure the settlement reached seems fair and proportionate. If approved, the Judge will seal your Order with a Court stamp and send it back to you. The Order is now sealed and therefore binding and enforceable. You may need to consult with other professionals such as financial advisors and/or conveyancers to fully implement the Order.



If the Judge does not approve the Order, then you will be advised that the draft has not been approved. Generally Judges who do not approve draft Orders will write to the parties with particular and specific questions, which may help the Judge understand why the agreement is drafted as it is, alternatively your matter may be listed for a virtual 15 minute 'Mention Hearing' within which the Judge will address you both to explain why the Order has not be approved, this is however, relatively rare in practice.



If you have made provision for pension sharing within your agreement/Order, generally you should wait 28 days upon the Pension Sharing Annex being sealed before applying to finalise your divorce by way of an application for Final Order. If there are no pension sharing provisions then upon receipt of the sealed Order you can proceed to file an application Final Order of divorce, thus concluding the process.



Rhiannon Compton is the founder and Director of The Family Law Consultant, a legal guidance and drafting platform with accessibility and affordability in mind. With a range of legal drafting services and consultations available, all on a fixed fee basis, The Family Law Consultant continues to attract clients looking to find cost effective solutions, without compromising on expertise. Contact Rhiannon with your family law related concerns or queries by email to; contact@thefamilylawconsultant.co.uk or visit www.thefamilylawconsultant.co.uk to view our FAQ's.

Mia Kee is the founder and Director of Kee Mediation, a family mediation service specialising in all aspects of family mediation. Kee Mediation's highly experienced and professional mediators support clients with making decisions about finances following separation or in preparation for divorce, and to come to decisions about childcare arrangements. The service is committed to offering affordable mediation, with fixed fees, legal aid and the government's voucher scheme. Contact Kee Mediation by email to: info@keemediation.co.uk or visit www.keemediation.co.uk for further information.

