

# A Different Approach to Resolve Disputes – Mediation and Collaborative Law

**Increasingly, litigation is no longer seen as the only course of action for businesses and individuals to resolve their disputes. Using Alternative Dispute Resolution (ADR) methods is a valuable and vital way to help directors and individuals overcome disputes that threaten the status quo.**

**Mediation or Collaborative Law can provide an important lifeline to avoid Court action and escape enormous legal costs or time delay.**

**Mediation and Collaborative Law provide you with CHOICE to adopt a different method of law, helping you to resolve, protect or defend conflict situations.**

## Mediation

Mediation is a technique to resolve disputes between parties that has been around for a number of years.

Mediation is a voluntary, “without prejudice” process in which a neutral person helps to bring disputing parties to a settlement without having to resort to the Courts.

Independent research indicates that mediation is successful in about 90% of cases, which then results in a binding agreement.

Mediation can be used for all types of dispute including:

- Family disputes
- Work places disputes between employees and/ or employers
- Disputes of Wills/inheritance

- Contractual or transactional disputes
- Intellectual Property matters
- Building and boundary disputes
- Financial disputes
- Sale of goods disputes
- Insurance disputes . . . to name but a few.

Mediation is an alternative to litigation and is fully supported by lawyers and the judiciary alike. Mediators have to undergo specific training and the Mediators at Brethertons LLP are all qualified and trained professionals.

## What are the benefits of Mediation?

- Mediation is likely to save you money because management time and legal costs are kept to a minimum.
- As mediation can be implemented quickly, you avoid some of the stress associated with a lengthy legal process and a drawn-out verdict.
- Business and personal relationships can receive less stress and potential long-term damage that might have been caused by costly litigation.
- Mediation is flexible and unique solutions can be tailored to suit each particular dispute or situation.
- Adverse publicity is avoided and matters are kept confidential, with no access to journalists, competitors or extended family.

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resolving disputes

...the difference

- The process is informal, with each case being debated in a straightforward, constructive and accessible manner.
- A skilled Mediator can identify the real issues at stake quickly, succinctly and in a frank and fair way.

## What else do I need to know?

Brethertons LLP offers a comprehensive, trusted and experienced service designed to provide the optimum solution for all. We aim for a win-win situation, reducing stress and confrontation whilst seeking conciliation and agreement.

## The Difference...

Our diverse team allows us to provide the most effective neutral mediator for each individual case, with the most appropriate mix of personality and expertise. In most cases, we aim to offer mediation within 28 days of a request.

## Mediation Facilities

- Mediation takes place at our premises, or at an external location if preferred.
- At our premises, we provide private rooms for individual lawyer-client meetings, as well as private rooms for group mediation discussions.

## How much does Mediation cost?

Mediation can be funded privately, by Community Legal Funding (Legal Aid) or by legal expenses insurance cover.

Our current mediation charges are:

- £150 + VAT per hour - the costs to be divided between the parties.
- Travel time is £35.00 + VAT per hour. Mileage expenses are charged at 40p per mile.
- Our fees are normally divided equally or in accordance with an agreement reached between the mediating parties.

## Collaborative Law

Collaborative Law is a new approach in dealing with disputes without going to court, with all the expense and heartache that that can cause.

Collaborative Law started in America specifically in Family Law and is now being used in England as the best way to reach settlements in cases of relationship breakdown.

When two people find that their relationship is over, it is rarely the case that a simple division of assets can be achieved and practical arrangements for children set in place without the need for discussion and negotiation. There are usually emotional as well as financial matters to be considered and a court-based solution, with its rigid timetable and adversarial approach, often makes the situation for the parties worse by causing tension and stress.

In Collaborative Law, each party is represented and advised by a trained collaborative lawyer, but instead of conducting negotiation by correspondence and applications to the court, all discussions and negotiations are conducted in "4-way" meetings with both parties and their lawyers. If there are some matters that cannot be determined without expert assistance, then other experts, such as childcare specialists or financial advisers can be included in the team to help with particular problems.

Collaborative Law can be used for all types of family dispute including:

- Divorce
- Relationship breakdown of unmarried partners.
- Child welfare
- The dissolution of Civil Partnerships
- Feuding families
- Financial settlements on separation, divorce or bereavement
- Inheritance disputes.

**At our premises, we provide private rooms for individual lawyer-client meetings, as well as private rooms for group mediation discussions.**

**The collaborative process could be complete within 8 to 12 weeks.**

**During the collaborative process each party has to be committed to working in an open and transparent way**

**One great advantage of the Collaborative Law process is that the meetings can be arranged for the convenience of the parties, at times and dates suitable for them, as frequently as needed and at an agreed venue.**



## **What are the benefits of Collaborative Law?**

- There is greater control in the hands of the parties. You control the process not the court.
- Meetings can be arranged for the convenience of the parties, at times and dates suitable for them, as frequently as needed and at an agreed venue.
- There is no need to be delayed by the court timetable. Typically a fully contested case will take between 9 and 12 months at least to be resolved through the courts. The collaborative process could be complete within 8 to 12 weeks.
- Emotional as well as financial matters can be dealt with, using expert help when needed.
- All matters concerning children can be considered.
- It is likely to result in lower legal costs overall, as the process is dramatically shorter than litigation.

## **What else do I need to know?**

During the collaborative process each party has to be committed to working in an open and transparent way, and all parties agree to try to resolve issues without going to court. This agreement is binding on both the couple and the lawyers, and if for any reason the process breaks down, and either party wishes to make an application to the court, then, both parties have to find new lawyers.

Almost all the work in a collaborative family law case is done in 4-way meetings, and each party has their own lawyer with them at all times in order to advise them. This can reassure parties who feel they may be at a disadvantage negotiating with their former partner alone, or with an independent mediator.

As the courts are not involved, there is also scope for more creative solutions to a situation to be explored and for arrangements to be made which would not normally be possible in the traditional system, such as involving third parties. Once an agreement has been reached, it may be converted into a fully binding court order without anybody going to court.

***Collaborative Law is a new approach to deal with disputes without going to court, with all the expense and heartache that that can cause.***

***All discussions and negotiations are conducted in "4-way" meetings with both parties and their lawyers***

***Mediation and Collaborative Law provide you with CHOICE to adopt a different method of law, helping you to resolve, protect or defend conflict situations.***



## Who are the Mediators and Collaborative Lawyers at Brethertons LLP?

### The Difference...

- Brethertons LLP has one of the first collaborative lawyers to be trained in the country.
- We have been instrumental in setting up the Heart of England practice group.

## The Commercial Mediators at Brethertons LLP



### Brian Auld, Partner

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Tel: (01295) 661436

Brian is a trained Mediator in IT work, commercial contract disputes, breach of warranties, shareholder disputes and disputes between employers and employees. Brian was a former in-house lawyer with Racal Electronics, Toshiba and Northern Telecom.



### Shaun Jardine, Partner

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Tel: (01295) 661413

Shaun is a trained Mediator in contentious work including breach of contract, negligence actions including professional negligence, boundary and partnership disputes. Shaun was the Lead Mediator at Banbury Court during National Mediation week.



### Richard Pell, Partner

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Tel: (01788) 532913

Richard is a trained Mediator in commercial disputes, contentious probate, personal injury and professional negligence. Richard was an in-house solicitor at Thorn EMI PLC. Richard trained with ADR Group, and is a member of the Law Society's Personal Injury Panel and also a member of The Association of Midlands Mediators and The Civil Mediation Council.

## The Family Mediators and Collaborative Lawyers at Brethertons LLP



### Simon Craddock, Partner

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Tel: (01295) 661430

Simon is a trained Mediator and a Collaborative Lawyer, specialising in family and childcare law. Simon one of very few specialists in child abduction law, and is accredited as such by Resolution. Simon is a member of the Law Society's Children Panel.



### Diane Jenkinson, Legal Executive

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Tel: (01788) 532929

Diane is a trained Collaborative Lawyer and a Fellow of the Institute of Legal Executives. She is highly experienced, having practised in all areas of family law for over fifteen years. She is a Resolution Accredited Specialist being one of only three specialists on the issue of domestic abuse in Warwickshire.



### Linda Jones, Partner

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Tel: (01788) 532916

Linda is a trained Collaborative Lawyer and is a specialist in the areas of pensions on divorce and financial provision on divorce. She has a special interest in complicated financial disputes on separation and divorce particularly those involving family companies, pension schemes and farms.



### Anna North, Solicitor

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Tel: (01295) 661429

Anna is a trained Mediator and Collaborative Lawyer and has a wealth of experience in all areas of family law, but particularly divorce and financial settlements. Anna is a Resolution accredited specialist. She advises on separation and cohabitation agreements and, like all members of the mediation team, is committed to helping resolve difficulties in an amicable and conciliatory way.

## How to make contact

If you would like to find out more about Mediation or Collaborative Law, or want to speak to any of our trained professionals about how a Mediation or Collaborative Law solution could work for you, please contact any of our team listed above.

An initial discussion is free of charge.

