

Mediation pre-divorce?

From 6th April 2011 anyone applying for a court order in relevant family proceedings needs to consider with a mediator whether their dispute is capable of resolution through mediation. It has been widely misquoted as being compulsory “divorce mediation” but is limited to:-

1. Children cases, EXCEPT to enforce an order, for financial compensation or in emergency proceedings
2. Financial cases, EXCEPT for an emergency financial order to prevent disposal of assets

There are many exemptions including:-

- One party to the dispute is unwilling to mediate.
- There has been domestic violence.
- The whereabouts of the other party is not known.
- The application is within existing proceedings.
- The application is an emergency made without notice.
- Urgency - risk to the life/safety, family/home of the applicant, or delay could result in harm to a child.
- Social Services are involved and there are child protection issues.
- The applicant contacts 3 mediators within a 15 mile radius of home and none can conduct mediation within 15 working days of the date of contact.

Most parties want to settle their case out of Court, but this is not always possible particularly if there is a power imbalance in their relationship when the weaker party feels intimidated and unable to say what they feel and for the reasons set out above.

If you need any advice about [separation, divorce or children disputes or Alternative Dispute Resolution methods](#) then please contact [Marian Lynch](#) or [Owen Reynolds](#) in our family team.

Reading Offices:
47 Castle Street, Reading
Berkshire, RG1 7SR
T: +44 (0) 118 958 0224
F: +44 (0) 118 958 5097
DX 146420 Reading 21

The Anchorage
34 Bridge Street, Reading
Berkshire, RG1 2LU
T: +44 (0) 118 958 0224
F: +44 (0) 118 958 5097
DX 146420 Reading 21

London Office:
1 Crown Court
66 Cheapside
London, EC2V 6LR
T: +44 (0) 20 7634 4620
F: +44 (0) 20 7634 4621
DX 133108 Cheapside 2

www.pitmans.com

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