



Meeting in the middle

IT may be a well-coined cliché but – as is the case with many aspects of life – when it comes to the break-up of a relationship, it really is “good to talk”.

Doing so, of course, is far easier said than done when your partner in conversation is the person you least wish to converse with. Separating is rarely as amicable as Gwyneth Paltrow and Chris Martin’s “conscious uncoupling” made it look and chatting cordially and constructively with someone you have grown more accustomed to exchanging cross words with is not always possible.

In such situations, the attraction of communicating via solicitors’ letters is obvious, but not the only option. Family mediation, for example, is becoming an increasingly popular alternative and has

a proven track record for promoting dialogue between divorcing couples and informing any subsequent legal settlement.

“Meeting a solicitor and meeting a mediator are hugely different,” explained Andrew Woo, a partner at West Country-based law firm Brewer Harding & Rowe. “Although both are methods of resolving issues between separating couples, their roles differ considerably.

“A family mediator is an independent, neutral third-party, there to facilitate an agreement but not there to provide legal advice. A solicitor, on the other hand, is a professional legal adviser who represents your case and is on your side.”

Highlighting the joint nature of mediation, Gemma Sparks of The Family Law Company added: “A mediator will help both of you identify, negotiate and come to

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The Family Law
Company*

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“You, your ex-partner and a trained mediator normally sit together to discuss your differences,” said the chartered legal executive.

“Although a mediator cannot give legal advice, they will listen to both your points of view without taking sides; helping to create a calm atmosphere where you can reach an agreement that you are both happy with; and suggest practical steps to help you come to that agreement.”

Expanding on how the process works, Lin Cumberlin of Batt Broadbent Solicitors said it was common for couples to initially attend a Mediation Information Assessment Meeting (MIAM) to determine whether further sessions will be beneficial. These are confidential, separate >>

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consultations with the mediator and last up to one hour.

Of the subsequent steps, she added: “An agenda will be drawn up at the beginning of each meeting which reflects what you and the other person want to discuss. The mediator will not take sides and will allow you and the other person time to talk and raise questions with each other.

“A good mediator has the ability to define and clarify the issues for resolution by questioning and prioritising. At the end of each session they may prepare a session summary and at the conclusion of mediation, depending on the nature of a dispute, they will prepare a Memorandum of Understanding that outlines what you have agreed and which provides an important framework in the event that you wish to have your agreement made legally binding.”

Kris Seed of Everys Solicitors stressed that although family mediation can assist in resolving disputes in relation to money, property or children, trained mediators are not miracle workers and the process only works with the buy-in of both parties.

“It can be a faster, cheaper and easier way to reach agreement,” she said. “However, it requires the ability of both parties to be able to work together and compromise appropriately and fairly in order to reach agreement.

“Mediation is a voluntary process and can be stopped at any time. It is also a ‘privileged’ process which means that discussions or agreements cannot be referred to in any subsequent court proceedings, if they are required. This is to give parties the opportunities to make suggestions without fear of the consequences.

“Any financial disclosure that has been exchanged is, however, ‘open’ which means that both parties can provide the information to their solicitors or to the court.”

Andrew agreed that participation was key to mediation’s success, but that the process should not be mistaken for a means to help reconciliation with your partner.

“It is about facilitating communication, not relationship counselling,” he said. “Mediation is only effective if both parties are cooperative and honest with one another. It works for many people, but isn’t right for everyone.

“Abusive and controlling behaviour may mean you feel unsafe, fearful or intimidated at a joint mediation session. The mediator needs to make sure that any behaviour doesn’t create unfairness. Following the initial mediations assessment, the mediator may advise it is not suitable for you or suggest ‘shuttle’ mediation – where you and your ex-partner sit in separate rooms and the mediator moves between you.”

For those able and willing to give it a go, family mediation offers many benefits, according to Lin, whose firm has offices in Chippenham and Salisbury.

“Mediation can be less stressful and any agreement reached can be altered if the circumstances change,” she said. “It can be less damaging for children involved and helps them continue important family relations because children and young people can also be invited to talk to the mediator on their own and in confidence. Child-inclusive mediation can help to sustain a child’s relationship with both parents and they can benefit from having someone other than their parents to confide in.

“Mediation can be a quicker and cheaper route to reaching an agreement as opposed to long drawn out court battles,” she added. “You and the other person are more likely to feel in control as the family mediator is there to help you reach decisions about things that are important to you both and to your family, saving you time, money and stress.

“Mediation also gives you the opportunity to take advantage of the space and time provided to you between your sessions to consider what is important for you and your family.”

While certainly cheaper than pursuing a resolution through legal channels, family mediation is not a free service. Financial help is, however, out there.

“Mediation is not always free but you may be assessed as being financially eligible for mediation funded by the Legal Aid Agency,” Gemma concluded. “Legal Aid will then fund the MIAM – this covers both you and your ex-partner, even if only one of you qualifies.

“If you qualify for mediation funded by the Legal Aid Agency, your mediation sessions will also be funded. It may also be that you qualify for ‘Help with Mediation’, which means you can obtain help from a solicitor during the mediation process.” ■



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