

FACTSHEET No 15:

Domestic violence



a better way to settle

If there has been violence in your relationship, mediation can still take place, as long as both parties are willing and the mediator has assessed that mediation is suitable.

This factsheet explores some common concerns regarding mediating when a relationship has involved domestic violence and the possibilities open to you.

How do mediators assess whether there has been violence in a relationship?

In all cases of relationship breakdown we recommend that you and your ex-partner attend separate initial Mediation Information and Assessment Meetings (MIAMs). This, importantly, gives the mediator the opportunity to ask you whether there was any violence, or other abuse, during your relationship in a confidential environment and in a sensitive way. Even if you choose to attend a joint MIAM with your ex-partner then the mediator will first spend some time with each of you individually to ensure there is a chance to discuss these issues in confidence.

Domestic violence and how mediation can be effective

There is some evidence to suggest that mediation can be both appropriate and empowering for women and men in cases where there has been violence (Irving and Benjamin 2002: 363). In all cases mediation will only take place if both parties are willing and the mediator has assessed that mediation is suitable.

The mediator will establish ground rules, such as speaking in turn and listening to each other with respect. The mediator will try and help keep the discussions on areas that will help you solve your problems and move forward rather than going over old arguments. If the levels of conflict become too high the mediator can intervene and if necessary stop the session. Many people find that mediation gives them a chance to speak up in a safe space without fear of being bullied or intimidated, and their views are taken into account regarding any future arrangements.

Hopefully in mediation the mediator can help you find a way of communicating that is very different from the way you communicated during your relationship. When you have children this is particularly important as you will both be parents of your children for ever, despite any problems that were in your relationship.

Special arrangements

When there has been domestic violence in a relationship seeing and meeting with your ex-partner, even with the presence of a mediator, can be very stressful. In order that you can discuss your concerns without fear, certain special arrangements can be made:

- Separate arrival and leaving times as well as separate waiting areas can be arranged so you do not have to see your partner without the presence of the mediator.
- You can request to have a break at any point throughout the mediation session.
- Shuttle mediation, when you are both in separate rooms and the mediator sees each of you individually, can be arranged if you do not want to be in the same room as your ex-partner.

These sorts of arrangements can usefully be discussed at the Mediation Information and Assessment Meeting.

When mediation is not the right option

Mediation will not be right for everyone. Whilst it is usually compulsory for anyone who wants to make an application to the court to consider mediation, by attending a Mediation Information and Assessment Meeting, mediation itself is not compulsory. If after the initial meeting you decide mediation is not the right choice for you and you would prefer another route, commonly making an application to the court, then the mediator will provide you with a signed page 19 of C100 if you want to make an application about children or a signed page 9 of Form A if you want to make an application about children and you can pursue this option. No matter what your situation family mediation is a wholly *voluntary* process. Even if you begin mediation, if you change your mind at any stage you can stop the process.

Sometimes the mediator will assess your situation as not being suitable for mediation for various reasons, including:

- Someone's safety is at risk, for example where domestic violence or child abuse is involved. If there have been court proceedings and the police have become involved you can take your case straight to court without having to consider mediation. You may qualify for legal aid to do this.
- Your dispute is about financial issues and you or your partner is bankrupt.
- You do not know where your ex is and cannot contact them.

In these cases the mediator will again be able to provide you with the appropriate form and signpost you to other services.