

## Divorce and The Division of Assets - Your Options

There are 5 ways of sorting out the financial aspects of a divorce. We can describe them as: **Negotiation, Mediation, Collaboration, Arbitration and Litigation**. Each has strengths and weaknesses, so choose your method carefully!

Two basic principles apply to all. First, parties should place "all cards on the table, face up". There should be "full and frank" disclosure of all facts.

The second is that there is no certainty, no final outcome, unless an Order is obtained from the Court "in full and final settlement".

### Negotiation

This includes informal discussions, after disclosure, and hopefully bearing in mind the checklist set out in s25 of the Matrimonial Causes Act 1973. Each party may, or may not, have legal advice.

### Mediation

Parties can use a mediator to broker an agreement. Mediators do not give legal advice. Their special skill is in persuading parties who are not initially agreed to build an agreement by compromise. Parties should at least consider having separate legal advice so they know whether what they are about to agree to is fair.

### Collaboration

This new technique of dispute resolution came from America, and is growing very quickly here. Parties resolve differences around the table, with the help of trained legal, financial and emotional advisers according to the needs of the situation. Collaboration is particularly protective of the needs of children. There is very high satisfaction with outcomes reached by collaboration, but it isn't for everyone, especially if there is a heavy emotional burden.



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## Arbitration

This is a new approach. Arbitrators are legally qualified, and act rather like a privately-hired Judge. You have to sign an arbitration agreement saying that you accept the Arbitrator's decision as binding. You can arbitrate a whole case, or just a part of it, as you wish.

## Litigation

The Courts are the place of last resort for those who cannot reach agreement. Procedurally, Courts now run cases on a common-sense basis by trying to persuade the parties to look at exactly where they are not agreed, and why. They also highlight the possible cost consequences of insisting on "having your day in Court" at a full Trial. Litigation unfortunately encourages parties to adopt a polarised "I'm right, he's wrong" approach. Often, the final outcome satisfies no-one, and the emotional harm to everyone, **particularly the children**, causes long-term emotional damage within the wider family.

There is a step by step approach in the Courts to disclosure, and there will be at least two hearings before a District Judge to try to resolve the dispute. Cases are only listed for a final trial if the parties are truly deadlocked.

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