FAMILY LAW SERVICES

RESOLVING YOUR DISPUTE OUT OF COURT

Burgess Mee

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We are an award winning family law firm. We are experts in our field and are based in Clapham Common and Moorgate with meeting rooms in Hammersmith.

Chambers CONTRIBUTOR Overviews UK 2026

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TRAUMA INFORMED FAMILY LAW Within The Window

FOUNDING PARTNER OF TATLER ADDRESS BOOK ADVISORY

At Burgess Mee we have at the forefront of our minds the options for resolving our clients' disputes outside the court process where possible. In this short guide we explore some of the principal routes to reaching a settlement.



MEDIATION

Mediation is a voluntary process by which you and your former spouse or partner meet with a mediator (in person or online) to try to reach an agreement between you.

A mediator is a neutral person who has been trained to provide a forum for you both to have a dialogue about your dispute. The mediator's role is to facilitate the discussion. They will not provide you with advice or a solution. As the mediation industry has grown there are now a significant number of options for how a mediation can be conducted, all of which we offer at Burgess Mee:

- **Client-led mediation** – this is where the clients and the mediator meet together. Typically, there will be individual 'intake' sessions where the mediator explains the process of mediation and ensures that the case is suitable for mediation. Then the parties meet together with their mediator for sessions of ninety minutes or so. These sessions are often spaced out so that the clients can reflect on the discussion and take advice or carry out research to be used in the next session (for example looking at budgets or housing particulars and reviewing school choices).

- **Shuttle mediation** - In this model of mediation, instead of the clients being in the same room as their mediator, they are in separate rooms either in person or online. The mediator "shuttles" between them, relaying the key points so as to narrow any areas of dispute. This can be helpful if one client does not feel able to discuss issues in front of the other and prefers the mediator to relay their thoughts to their former spouse/partner.

- **Hybrid mediation** – this is where the mediation process is supported by solicitors and the mediator can keep confidences between the clients. Under the traditional model of mediation set out in the two examples above, once the parties are in mediation there is full transparency as to what the other party is saying. In contracts, with hybrid mediation the parties can tell the mediator something that they might not want the other party to know. Hybrid mediation can be suitable for more complicated cases or where one party feels they need the support of a solicitor to give them advice. Although the traditional model of mediation involves shorter sessions, the hybrid mediation model can involve longer sessions, perhaps with regular breaks involved. The clients are usually in separate rooms, as with shuttle mediation.

- **Child inclusive mediation** – this is where the parents want to mediate but they would like to have input from one or more of the children. It is usually only suitable for cases where the children are over the age of 8. The clients have individual sessions and then a joint session where the mediator discusses the pros and cons of the process with them, outlines the scheme, and makes a plan as to how the child's views will be ascertained and fed back into the mediation process. The discussion between the mediator and the child or children is confidential so the mediator will only share with the parties what the child wants to be shared. At Burgess Mee we can conduct child inclusive mediations.

- **Bespoke mediation**– at Burgess Mee we are used to thinking creatively about how to set up a mediation process that works for our clients' individual needs. Mediation is a very flexible process and there is plenty of scope for innovation and creativity for the particular needs of each client. Examples of how we have adjusted our processes include bringing a parenting coach into a mediation with the parents and their children and using a lawyer from outside the firm to provide advice within the mediation process to enable the parties to discuss matters in an informed manner. This is sometimes called Early Neutral Evaluation.

COLLABORATIVE LAW

This is a different process. Each party has their own solicitor and those solicitors work "collaboratively". Instead of writing letters to each other, the work is done within four-way meetings (with the two clients and their respective collaborative solicitor). The clients sign an agreement at the beginning of the process to say that they cannot use these lawyers if they do not reach an agreement and decide to apply to court instead. This is with the intention of encouraging people to continue to try to negotiate within the collaborative process without worrying that the other party will start court proceedings. At Burgess Mee, David Lillywhite and Rachel Freeman offer the collaborative process.

"ONE LAWYER ONE COUPLE" OR RESOLUTION TOGETHER

At Burgess Mee we have a scheme where one lawyer can give advice to both clients at the same time. That lawyer cannot give advice to the client themselves on their individual situation but instead advises on the family situation as a whole. In a similar way to mediation, the clients have intake sessions and the case is screened for suitability. The advice can be given in writing to the clients as well. This could be dovetailed with mediation as set out above. Ffion Greenfield has undertaken the requisite training and can offer this model of dispute resolution.





PRIVATE FDRS

These are a common mechanism, with a very high success rate, for resolving more complicated cases. The Financial Dispute Resolution process or FDR is the second hearing in the court process for resolving disputes about money on divorce. At the court hearing, a publicly funded judge will hear arguments from both sides about what the right answer is and will give a non-binding view in broad terms about the outcome of the case. The parties then use the "indication" given by the judge to negotiate outside of court. If the parties do not settle, that judge will play no further role in the case apart from managing the case to a final hearing.

A private FDR is the same process, but instead of being in a court building with a publicly funded judge, the parties choose and pay for their "judge" (usually a barrister, solicitor or a retired judge) and recreate the exercise in a more comfortable, private setting.

ARBITRATION

An arbitration is another "private" court process. Instead of going to a final hearing where a publicly funded judge will make a binding decision on how to resolve their financial dispute, the parties agree to appoint and pay for a private "judge" to be the arbitrator (usually a barrister or a retired judge). The arbitrator makes an "award" which is binding and enforceable in the same way as a court based outcome. The same routes of appeal as in the publicly funded court process are available to the parties after an arbitration award.

The arbitrator is usually a specialist financial remedy practitioner who is a member of the Institute of Family Law Arbitrators. Arbitration is different to a private FDR both because the outcome is binding and also because the parties can give evidence. It is possible for an arbitration to be conducted "on paper", without the parties having to attend the arbitration.

It is possible also to arbitrate about children issues such as what the child arrangements should be, what school a child should attend and even whether one parent should be given permission to move the child to another part of England and Wales or abroad.



If you would like to have more information about any of these options, please speak to a member of our team, whose details are set out below.



Peter Burgess
0203 824 9952
peterburgess@burgessmee.com



Antonia Mee
0203 824 9951
antoniamee@burgessmee.com



David Lillywhite
0203 824 9966
davidlillywhite@burgessmee.com



Henrietta Thomas
0203 370 2613
henriettathomas@burgessmee.com



Kirsty Morris
0203 824 9955
kirstymorris@burgessmee.com



Rachel Freeman
0203 963 3231
rachelfreeman@burgessmee.com



Susie Barter
0203 370 2615
susiebarter@burgessmee.com



Emma Morris
0203 479 7075
emmamorris@burgessmee.com



Ffion Greenfield
0203 005 1086
ffiongreenfield@burgessmee.com



Alice Rogers
0203 824 9969
alicerogers@burgessmee.com



Victoria Sterritt
0203 059 7215
victoriasterritt@burgessmee.com

Burgess Mee

CLAPHAM COMMON

Unit 9, 16 Porteus Place, Clapham, London, SW4 0AS

MOORGATE

51 Moorgate, London, EC2R 6BH

HAMMERSMITH

Meeting Rooms

1 Lyric Square, Hammersmith, London, W6 0NB

mail@burgessmee.com

+44 (0)203 824 9950