

MEDIATION
FOR
PARENTS



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BARNE- OG LIKESTILLINGSDEPARTEMENTET

The Ministry of Children and Equality

REASONS FOR MEDIATION

THE RELATIONSHIP ENDS, BUT PARENTHOOD CONTINUES

This folder is meant to help you, as a father or a mother, when you have to take difficult decisions which also concern your children.

Both the parents and the children often experience disappointment and anger in connection with a separation. For the children, it is important that the adults do their best to keep the separation and the period following it as free from conflict as possible. The children are yours together even when the relationship between you has come to an end. It is important to manage to cooperate as parents.

WHAT DOES THE LAW SAY ABOUT MEDIATION?

The Marriage Act lays down that spouses with children under 16 years of age must attend mediation proceedings before a separation or divorce case can be proceeded with. Cohabiting couples with children under 16 years of age must also attend mediation if their relationship breaks down. This is laid down in the Children Act. In order to be granted additional child benefit (child benefit for one child more than the actual number of children) following the breakdown of the relationship between cohabitants, you must present a mediation certificate.

The Children Act lays down that mediation must take place before a case concerning parental responsibility, where the child is to live permanently or right of access can be brought before the court. The purpose of mediation is to enable parents to arrive at an agreement concerning parental responsibility, right of access, and where the child is to live permanently. The agreement, which should be in writing, must have regard for what is best for the children. The mediator will help the parents to make such an agreement.

THE PARENTS DECIDE THE TERMS OF THE AGREEMENT

Although the mediator helps you to discuss your problems and to draw up an agreement, it is you, the parents who decide what arrangements you want to make for your children. *You* know best what arrangements will work, and it is your responsibility to keep to the agreement you reach.

QUESTIONS YOU SHOULD ASK YOURSELF

It makes sense, therefore, to think through the kind of arrangement you want before meeting the mediator for the first time. The following text lists some questions you should try to answer, separately or together.

WHAT SHOULD YOU THINK THROUGH BEFORE MEETING THE MEDIATOR?

TELLING THE CHILD

How should you go about telling your child about your separation? Has the child reached an age at which it should be entitled to an opinion on where it is to live? How should you ask the child about this?

According to the Children Act, children over 7 years of age are entitled to state a preference as to which parent they wish to live with. Remember that no pressure must be put on a child to choose between its parents.

WHERE IS THE CHILD TO LIVE?

Which of you is to have the daily care of the child? What do you think would be best for the child? What will the day-to-day financial position be if the child lives with its mother/with its father, or if you decide that the child shall stay one week at each parent?

NAV (the Norwegian Labour and Welfare Service) can give you information on child maintenance payments and public benefits.

PARENTAL RESPONSIBILITY

Parental responsibility entails the right and the duty to take decisions on behalf of the child in personal matters (such as in the choice of religious faith, or of names, and in connection with guardianship). Parental responsibility shall be exercised according to the child's interests and needs. Married parents share parental responsibility. Most parents continue to do so after separation. Do you also wish to maintain the arrangement, or should the parent the child is to live with have sole responsibility?

There are new rules concerning the parental responsibility of cohabiting parents, which apply for children born after 1 January 2006. Parents who live together when paternity is established shall have joint parental responsibility for common children. Parents who are registered at the same address or who have submitted a declaration of cohabitation to the National Population Register shall be regarded as cohabitants. Parents may also submit a declaration of cohabitation to the National Population Register and be given joint parental responsibility for children born before 1 January 2006.

ACCESS

When the parents do not live together, the mother has parental responsibility alone, unless the parents have notified the Population Register that they want joint parental responsibility, or that the father is to have it alone.

Being together with both parents is a right held by the child. Parents have wide scope to draw up an agreement which specifically suits their family. An agreement should say something about:

- access on weekdays and at weekends
- holidays
- other days off
- birthdays and other special occasions
- who is to bring and collect the child?
- what right of access arrangements should apply if one of the parents moves to another part of the country?
- who is to meet travel expenses in connection with access?

BEING WITH OTHERS

How is the child to maintain contact with its grandparents, other relatives, and friends of the family?

NEW PARTNERS

If either parent gets a new partner, what should the role of that partner be in relation to the child?

COOPERATION

Should you agree to have regular meetings to talk about the child, discuss changes in the access arrangements, and the like?

THINGS YOU SHOULD KNOW

WHO CAN MEDIATE?

Mediation is provided by all family counselling services. If necessary, other mediators can be appointed. Clergymen, lawyers, staff members at school psychology services or social welfare offices, or other persons with the appropriate health or social science qualifications may thus be approved as mediators. All mediators must be familiar with the problems which can arise in connection with divorces and the reactions of children to separation, and with the legal aspects of separation and divorce.

To find out where to contact your nearest mediator, inquire at the Barne-, ungdoms- og familietaten's (Bufetat) office or the family counselling service in your county.

CERTIFICATE OF MEDIATION

You must attend one hour of mediation. After this hour, the mediator issues a mediation certificate. You enclose this with the separation application together with the other required documents. The certificate must also be sent to the local offices of the Norwegian Labour and Welfare Service when applying for additional child benefit following the breakdown of a relationship.

Certificates of mediation are also required before cases concerning parental responsibility, right of access, or where the child is to live permanently can be brought before the courts.

All couples are offered a further three hours of mediation. If, after four hours of mediation, you fail to reach an agreement, you may be offered three hours more mediation if the mediator considers that this may result in your reaching agreement.

You can bring the agreement on parental responsibility, residence and right of access before the County Governor and request that a corresponding administrative decision be made. The County Governor may approve the agreement so that it can be enforced should one of you later so wish.

EXCEPTIONS FROM MEDIATION

Mediation proceedings are not required when divorce is being sought on the grounds of abuse. The same applies if the marriage is dissolved because it was entered into by close relatives, because of bigamy, or following dissolution proceedings entered into by a guardian.

The agreement arrived at by parents is their property and responsibility. A mediator can not overrule or refuse to recognise an agreement reached by you. Nor is the mediator responsible for the contents or consequences of the agreement.

A mediator is obliged to observe professional secrecy concerning matters which come to his/her knowledge in the course of mediation. However, if a mediator suspects serious neglect or abuse of the child, such suspicions must be reported to the child welfare authorities. This follows from Sections 26 and 26A of the Marriage Act.

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