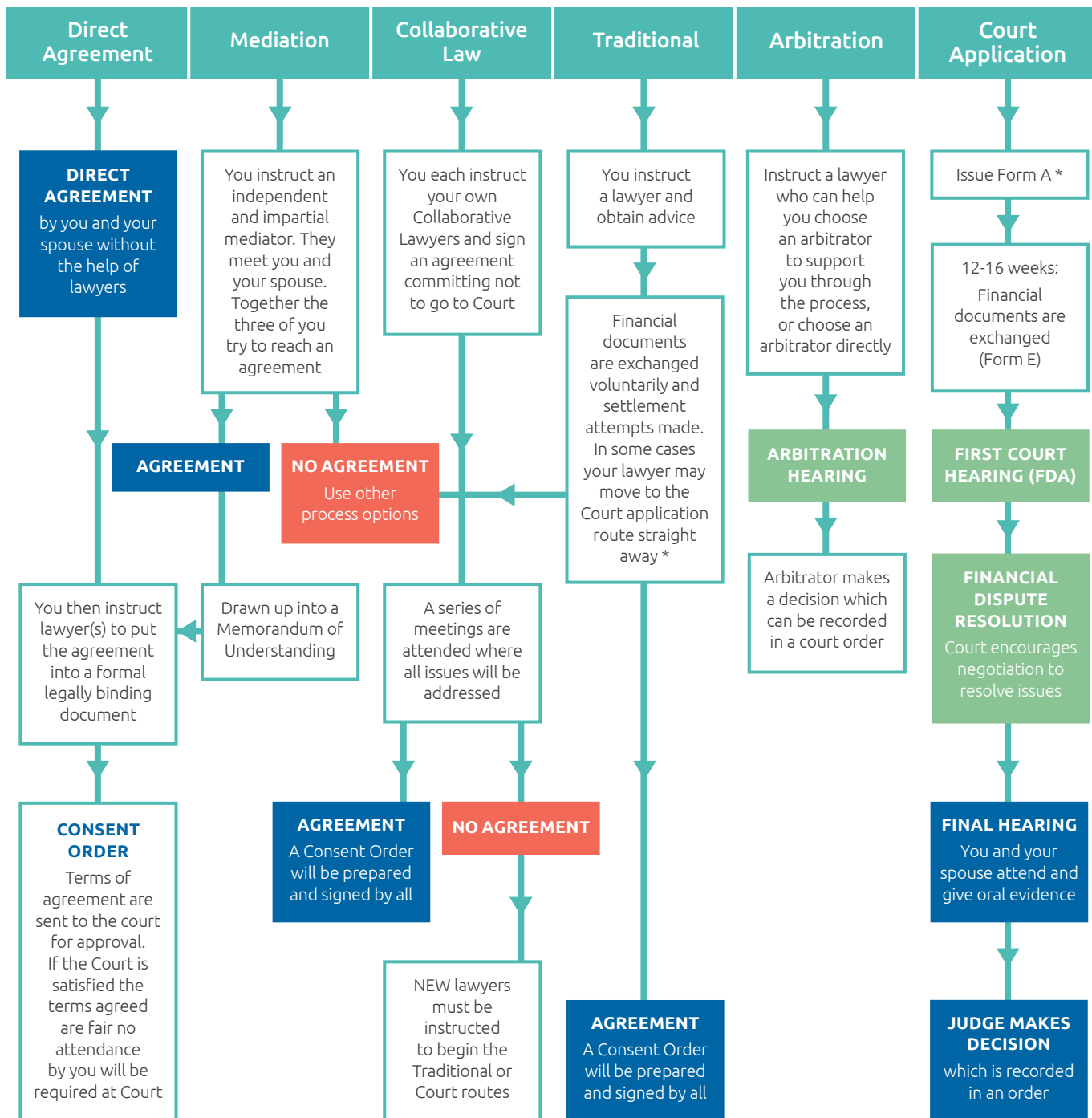


# Process options for resolving financial aspects of marriage breakdown

It is imperative that you obtain advice about the various options at an early stage. The right approach for you will depend on a number of factors. As specialist family solicitors, we are able to act for you in all of the scenarios set out below:



\* See our separate detailed flowchart on **Court Process**

### Direct agreement

Spouses who amicably separate and retain trust in one another sometimes prefer to engage in direct negotiation to agree financial arrangements. It is still advisable to obtain a financial disclosure from the other party and obtain legal advice as to the fairness of the terms proposed. Any agreement should ultimately be incorporated within a Consent Order by a solicitor, which once approved by the Court will make it final and binding.

### Mediation

Mediators are trained in assisting couples in dispute resolution and will meet a couple together to identify the issues between them and to assist in reaching an agreement. They do not give legal advice and you should obtain legal advice alongside the mediation process. Once a couple have reached agreement the mediator prepares a summary of the terms and the financial information. Once both parties have received legal advice and if they are content to continue with the agreement reached, the solicitors will convert the summary into a legally binding document to be presented to the Court.

### Collaborative Law

The collaborative process is regarded by many as a family focussed, dignified and non-confrontational method of resolving matters arising from family breakdown. Each spouse will choose their own qualified lawyer who will engage with each other and the parties in a series of meetings to work as a team to find a solution together for the family as a whole. Collaborative lawyers and their clients sign an agreement which commits all participants to helping you find the best solution by agreement, rather than through conflict.

### Arbitration

Family arbitration is an alternative to Court where parties cannot reach agreement either on the whole of the case or on a specific aspect of it. An arbitrator is appointed, usually with the help of a solicitor. The timetable is flexible and is agreed between the parties and each of you will have a chance to put your case to the arbitrator before a decision is made. The arbitrator's decision will be final and binding between the parties and will be converted by the solicitors into a Court Order.

### Traditional negotiation

This process involves appointment of a solicitor who focuses on your interests and negotiates with your spouse/their solicitor on your behalf. There may be a degree of voluntary financial disclosure but if a settlement cannot be concluded fairly promptly, it is likely the final option set out below will become necessary.

### Court application

Before an application can be made, there is a legal requirement (with some exceptions) to attend a meeting (called a MIAM) with a mediator to explore whether non-Court options have been fully explored. If no alternative is appropriate, the Court will issue a formal timetable for financial disclosure followed by a series of hearings. If settlement cannot be achieved before or at these preliminary hearings, a final hearing will be listed where a Judge will impose a decision upon the parties based on what he or she thinks fair. Due to the discretionary nature of such proceedings, this is often described as a lottery.

For further advice please speak to a member of the Family Law team.

#### DISCLAIMER

Furley Page fact sheets provide background information on complex areas of law. Whilst every care has been taken to ensure their accuracy at the time of preparation, these fact sheets are not intended to be a substitute for legal advice. Specialist legal advice should always be sought before taking, or refraining from taking, any action.

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01227 763939  
family@furleypage.co.uk  
furleypage.co.uk