



## Family arbitration

Ensuring an independent  
and binding decision

Splitting up is complex, and for many people the thought of sorting out your separation yourselves is daunting. Perhaps you and your former partner disagree on how resources will be divided, or you have tried and failed to reach an agreement.

But this doesn't have to mean going to court. Arbitration is a form of dispute resolution where, if you and your partner agree, a qualified professional is appointed as an arbitrator and adjudicates your separation, similar to the way a judge would, and makes a binding decision known as an award.

The difference from court is that family arbitration is confidential, you have more control over the way the arbitration is run and it's often quicker. Arbitration is not just for married couples and civil partners – it can be used by unmarried couples too. Family arbitration can be used for:

- divorce financial disputes claims on inheritance from a child or spouse
- financial claims after an international divorce
- claims for child maintenance between unmarried parents and other financial provision for children
- disputes about property ownership between unmarried couples
- civil partnership financial claims
- living arrangements for children
- contact arrangements for children
- disputes over where children should go to school
- financial provision for family members after a death

### Why use arbitration?

- Faster process – you can fix a date for your arbitration almost immediately
- You and your former partner can choose your arbitrator
- You can select a date and time for your hearing that suits you both
- You can choose how you want to run your arbitration
- Flexible and less formal than the courtroom
- Confidential and kept out of the 'public eye'
- Your arbitrator will be completely focused on your hearing



Arbitrators are experienced family justice professionals with extensive experience working in family disputes. Your family arbitrator will make a decision after hearing from each of you. They will act fairly and impartially, giving each of you the opportunity to put forward your views.

Family arbitration applies the laws of England and Wales. It's different from other forms of out of court dispute resolution – in arbitration, you are guaranteed that a decision will be made for you.

Arbitrators do charge fees, but due to the speed and flexibility of the process, the overall cost is likely to be less than going through the courts.

### How does arbitration work?

One of the key benefits of arbitration is that you can choose an arbitrator best suited to the particular circumstances of your case. You can find an arbitrator through either the Resolution or the Institute of Family Law Arbitrators (IFLA) websites (see below). Guided by your solicitors, you can choose a specific arbitrator or ask IFLA to choose.

The choice can take account of where you're based, the extent and complexity of the issues and the professional background of the arbitrator (e.g. solicitor, barrister, legal executive or retired judge). This means that there is no one-size-fits-all approach to engaging the arbitrator, the process itself and

the costs involved. Each arbitration will be different.

The vast majority of arbitrators will offer an initial no obligation consultation (often by telephone) to get an understanding of what is involved.

Many arbitrators will offer a fixed fee which may cover the whole case or specific steps in it, or a combination of fixed fee (e.g. for a hearing) and hourly rates (for preparation and unexpected work). The initial discussions will usually help determine this.

The process starts with the completion of an application form called an ARB1. Once this has been submitted and the arbitrator's terms of business have been agreed, the arbitration starts.

Depending on the issues in the case, there may be a directions hearing to deal with preliminary issues and a final hearing. It might be possible for the whole case to be dealt with on paper rather than there being a face to face hearing.

After hearing or reading the facts, evidence and both sides' arguments, the arbitrator will produce an award which is sent out to both sides after his or her fees have been paid in full. This will be a binding decision.

Depending on the type of case, your solicitors may need to draw up a formal order reflecting the terms of the award, which is submitted to the court for approval to give the decision its legal force. This is required, for example, if the arbitration is dealing with the financial consequences of a divorce.

If a decision needs to be made into a court order, there is a fast track court procedure available.

[www.resolution.org.uk/arbitration](http://www.resolution.org.uk/arbitration)  
[www.ifla.org.uk](http://www.ifla.org.uk)

# Find out more about arbitration

You should talk to your solicitor about the process, who will also be able refer you to an arbitrator.

You can find out more about arbitration on the Resolution website at [www.resolution.org.uk/arbitration](http://www.resolution.org.uk/arbitration). You can also read more about arbitration on the Institute of Family Law Arbitrators (IFLA) website [www.ifla.org.uk](http://www.ifla.org.uk).



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Resolution is the trading name of the Solicitors Family Law Association, which is a company limited by guarantee. Company number 05234230. February 2019