

# Appropriate Dispute Resolution

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# Appropriate Dispute Resolution

- Kitchen table
- Mediation
- Round table – lawyer led negotiation
- Collaborative
- Arbitration
- Litigation

# Mediation

- What is it?
  - An independent qualified mediator works with a couple to help them come to a mutual agreement
- Points to consider:
  - Lawyer or non-lawyer
  - Sole or co
  - Children, money or all issues
  - Usual model or commercial model

# Main features

- Voluntary process
- Confidential
- Option development
- No final order

# Who does it suit?

- People who want to minimise conflict
- There is no power imbalance
- Both parties will put the children's interests first
- Both are prepared to see things from the other person's point of view
- Happy with concepts of transparency and accountability

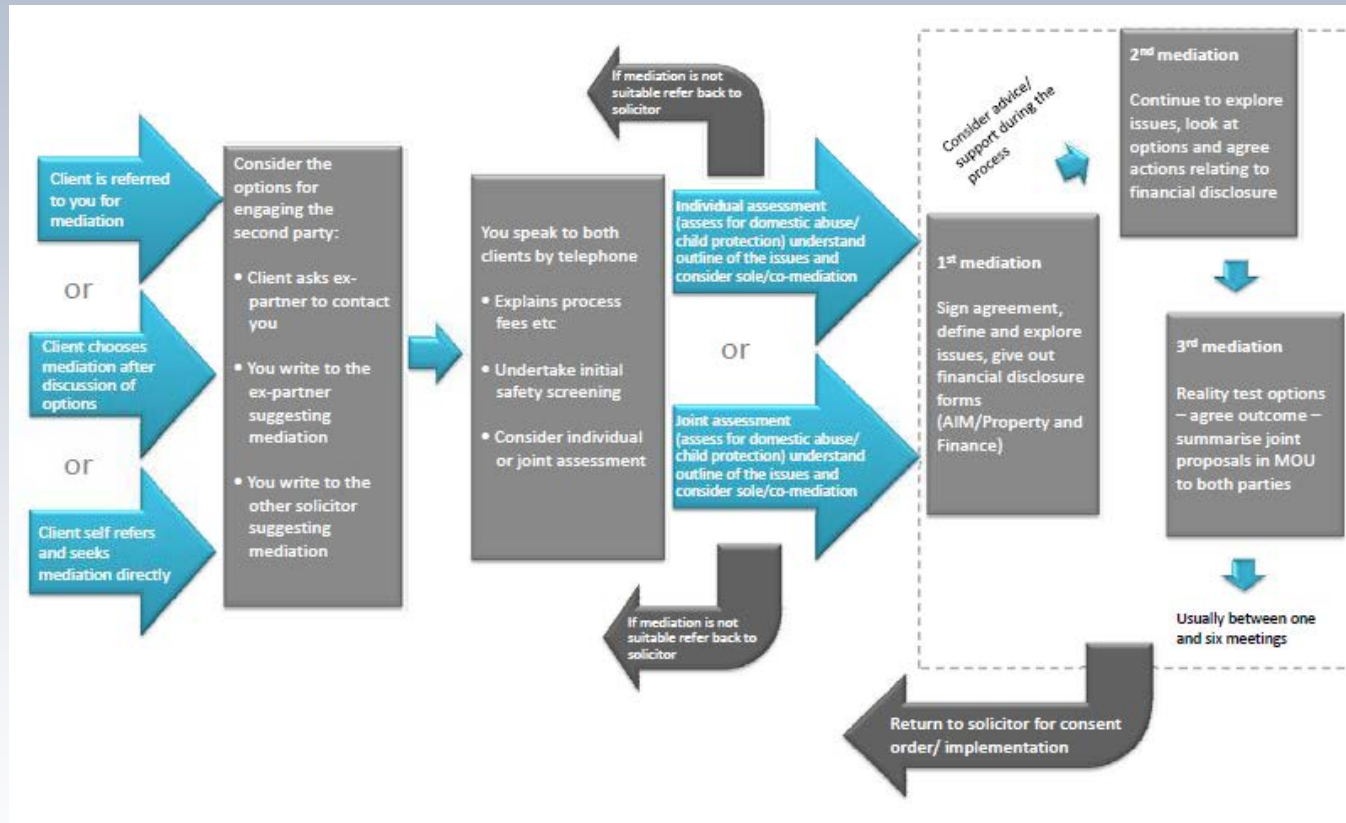
# What are the advantages?

- Pacing
- Less acrimonious
- Potentially much cheaper
- Ongoing future relationship

# Talking of costs – how much?

- The mediator's hourly rate divided by 2!
- Solicitor's advice outside the mediation
- 3-5 sessions – each of an hour and a half?

# How does the process work?





# Government's view

- Family Justice Minister Simon Hughes says in February 2014: 'Mediation works. We are committed to making sure that more people make use of it rather than go through the confrontational and stressful experience of going to court.'
- Report entitled 'Mapping paths to family justice', Summer 2014. The project's main aim was to provide much needed evidence about the awareness, usage, experience and outcomes of the different 'alternative' or 'out of court' family dispute processes. It concludes by stating that the government need to consider other DR options as well as mediation.

# Another option? COLLABORATIVE?

- Inter-disciplinary and holistic process
- Transition rather than trauma
- Client driven

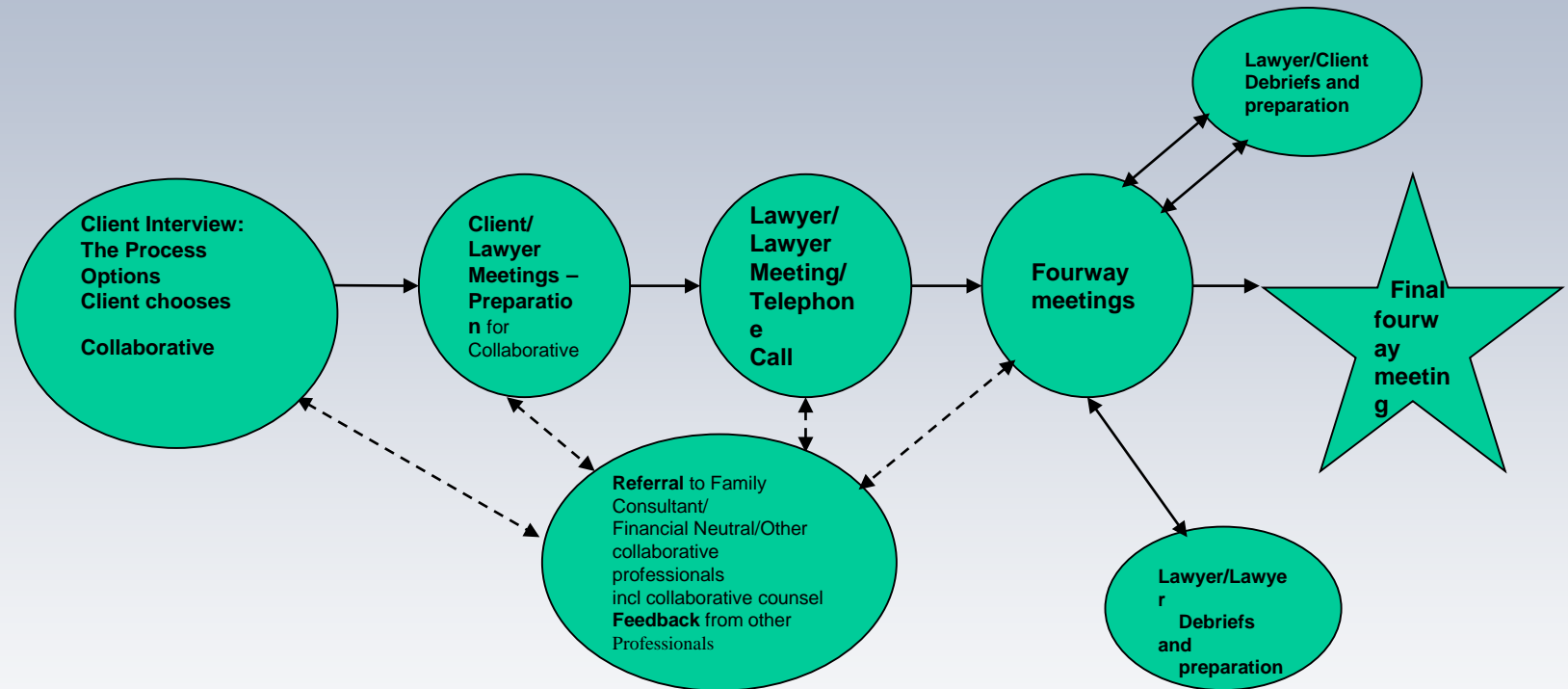
## How does it work?

- Clients each instruct collaborative lawyer
- No adversarial court proceedings – disqualification clause
- Negotiation in good faith
- Issues resolved in face to face meetings
- Correspondence kept to a minimum

# Important elements

- Transparency crucial
- Legal advice important but client's interests and objectives prioritised
- Teamworking with other professionals
- Client satisfaction

# The process map for collaborative process



# How to identify a collaborative client

- Ability to understand process options
- Not too positional
- Wants to 'divorce with dignity'
- Has a measure of goodwill

# The client's experience – resolution survey

- The clients have more control over the process – timing and pacing
- They are able to bring into account the things that really matter to them
- It should be a dignified and respectful process
- It removes the fear or surprise of the court process
- It encourages creativity in finding holistic solutions

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