

AGREEMENT TO MEDIATE
BETWEEN [_____] AND [_____]
IN RESPECT OF MEDIATION TO BE CARRIED OUT
BY KEVIN EDWARD O’RIORDAN OF KELLY LUFT STANLEY AND ASHTON ADVOCATES

The Principles

1. Mediation is voluntary. You come because you want to try to reach resolution of issues in dispute by negotiation but you have the right to end the mediation at any time if you wish. Mediators also retain the right to end the mediation if they consider that it would be inappropriate to continue..
2. As mediators we are impartial and seek to help all parties equally. We do not make judgments or express opinions about who may be right or wrong, and we do not take sides. We help you to reach your own decisions about your case.
3. Mediators may provide legal and financial information in a neutral way to help you understand the options available to you. We do not provide advice on your “best interests” and the choices and decisions remain yours at all times.
4. All information including correspondence from either of you will normally be shared openly with each of you. The only exception to this is an address or telephone number which any of you may wish to keep confidential.

The Process

5. Where relevant (and particularly where you do not have legal representation) we ask each of you to provide to the other(s) complete and accurate disclosure of the factors relevant to your case (which in a family case may well include details of your financial circumstances with supporting documents). We do not verify the completeness and accuracy of the information provided, but you may be asked to sign and date a statement confirming that you have made full relevant disclosure. If it later emerges that full disclosure has not been made, any agreement based on incomplete information can be set aside and the issues re-opened.
6. The disclosed information is usually provided on an open basis, which means that it is available to your legal advisers and can be referred to in Court, either in support of an application made with your joint consent or in contested proceedings. This avoids any need for the information to be provided twice.

7. The actual discussions about possible terms of settlement are legally privileged and/or without prejudice until/unless an agreement between you has been successfully negotiated. This means that your discussions about the issues between you and proposals for settlement cannot be referred to in Court unless all parties agree. You will not call the mediator(s) to give evidence in Court.
8. If requested, mediators will draw up written summaries of your unsuccessful or provisional proposals for settlement (legally privileged and/or without prejudice) and “open” summaries of financial or other disclosure. Such summaries will help each of you to obtain independent legal advice (if you have not already done so) before entering into a legally binding agreement or proceeding on any other basis. If full agreement is reached without the need for additional legal advice, mediators will normally assist in the preparation of a suitable form of written agreement.
9. If the mediation proves unsuccessful from the point of view of actually achieving an agreement between you, and you would then like the mediator to give an indication of what the mediator believes would be a fair outcome, the mediator may be prepared to do this as long as all parties agree that this is what you want. In a family case, such an indication cannot usually be legally binding but will be designed to assist you in continuing to try to negotiate settlement of the case with the help of your respective advocates; in other types of case the mediator can be asked to take a decision as an arbitrator which will then be legally binding.

Confidentiality

10.
 - a. Mediators have a professional duty of confidentiality but subject to some exceptions as set out below.
 - b. Where any person (particularly a child) is alleged to be at risk of serious harm we have a duty to contact the appropriate authorities.
 - c. Where we receive any information which creates a suspicion of money laundering or terrorist financing, we may have a duty to contact the appropriate authorities.
 - d. We are “processors” of personal data for the purposes of the Data Protection Act 2002. You consent to us processing your personal data for the purposes of this Agreement to Mediate. This includes our retention and storage of your personal data for as long as is necessary in connection with this Agreement. We may retain data

for research and statistical purposes but on the understanding that before being used for this purpose all identifying details would have been removed.

- e. Our practice standards require regular review of our files. Periodically, our practice supervisors and/or the relevant authorities may have sight of files, but access is strictly controlled and on a similarly confidential basis.

Concerns and Complaints

- 11. We act in our professional role as mediators. Our practice is governed as part of our practice as advocates by the Isle of Man Law Society and in family cases is operated in accordance with principles approved by Resolution and the Family Mediators Association. Although we may have other qualifications we act only as mediators and no other organisation is involved in the mediation.
- 12. We shall do our best to help each of you impartially. We ask you to show your integrity and commitment to the mediation process and to co-operate as fully as possible in looking for workable solutions.

Charges

- 13. Our charges are £275 per hour plus VAT, normally divided equally between you unless some contrary agreement is reached. These charges relate to all time spent in dealing with your case, including any preparatory reading, relevant correspondence and preparation of any documents.

We understand and agree to the above

Date:

Signed:

Signed: