

NCDR

A Different
Approach:

Interactive Seminar

Wednesday 25th February 2026



Sousa Law

N^o 18
CHAMBERS

Meet your NCDR Specialists



Cathy Sousa
Sousa Law



Francis Payne
No.18 Chambers



Emma Sanders
Sousa Law

Cathy Sousa

- Family Arbitrator (Children & Finance) CIArb, IFLA
- Accredited Family Mediator
- Collaborative Solicitor
- Resolution Together Specialist
- ENE and pFDR Judge

- Resolution Trainer
- Resolution National Committee
- Co-Chair Collaborative Practice Working Party
- Resolution Drafting Committee Member
- Co-Founder of HFLS model (www.hfls.co.uk)

sousalaw.co.uk

02380 713060

csousa@sousalaw.co.uk



**Time to get
to know you!**

Scan the QR code
below:



Non-Court Dispute Resolution

1. Have the April 2024 NCDR rules made any difference?
2. Is the FM5 used constructively by Judges?
3. Is there a greater uptake of NCDR generally?
4. Are clients being sent to MIAMs when mediation is not suitable and without fully exploring all NCDR methods first?
5. Are all NCDR methods always discussed with clients in a first meeting?

NCDR Definition

**NCDR IS AN
ONGOING REQUIREMENT!**

-
- FPR r1.4(2)(f) requires court to encourage NCDR
 - FPR r 2.3 defines NCDR as methods other than court, including but not limited to :
 - ❖ mediation
 - ❖ arbitration
 - ❖ evaluation by a neutral third party (such as private FDR)
 - ❖ collaborative law
 - RT may be NCDR if parties complied with other parts of protocol
 - Round table may be NCDR depending on when and how conducted
 - Solicitor correspondence is **NOT** evidence of NCDR alone.
 - Pre-Action Protocol (PAP) and President's letter – being used?
 - FPR Part 3 – requires ongoing consideration of NCDR. Provides Court with power to stay/adjourn and order costs

NCDR Information and documents for Clients, LIPs and Opposing Solicitors

1. FPR Part 1 Overriding Objective – Rule 1.4
2. FPR Part 2 Definition of NCDR – Rule 2.3
3. FPR Part 3 Court Duty to consider NCDR – Rule 3.3 and 3.4
4. FPR Part 3 MIAM Exemptions – Rule 3.8
5. FPR Part 3 MIAM Conduct – Rule 3.9, 3.10
6. Letter from the President of the Family Division (The Rt Hon Sir Andrew McFarlane)
7. Pre-application Protocol
8. FM5

What to Expect from Good NCDR Practice



Sousa Law

The Team - lawyers and other professionals working together to support the family in all 3 areas **legal** , **financial** and **emotional** .

Non adversarial – No costly correspondence or positioned, aggressive approach. Relevant information shared freely and questions asked and managed **sensitively** and swiftly.

Joint approach - clients given the same information, **minimising misunderstanding** and different approaches.

Solutions based - Exploring **solutions** and **reality testing** proposals rather than Court style positional negotiations.

Early identification of real issues – limiting cost and time from the outset to **reduce anxiety** early on.

Best communication – best chance of positive co -parenting, relationships in future and **family wellbeing**.

NCDR

Benefits to Separating Families

Cost – **cheaper** and more effective than Court process

Speed – we can't give back **time** to our clients or children

Bespoke - **flexible** solutions not always offered by Court.

Team Benefits - **seamless** involvement of other experts addressing ALL aspects of separation without repetition.

Client control – clients agree and control process including agenda, timings, pacing, process, venue etc.

Child and Family focused - promotes **co-parenting** and communication in a **safe space** to enhance sensible and reasonable **decision making**.

Efficient Advice - on hand **professional advice** with everyone working as a team for the benefit of the family.

Dignified - More respectful and **private** way of working with **boundaries** set from the outset.

NCDR

Professional Benefits For You

Out of Court – Alleviates adverse effects of the traditional process on resulting in risk of **burn out** and the increasing **pressure on Court** . Improves **wellbeing** .

Constructive - Lawyers commit to a less adversarial and more **constructive** way of working. **Be Kind!**

Practice skills – will **build knowledge** and revitalise practice and **professional skills** to **future proof career** .

Network Building – enhancing **professional relationships** by working more closely with likeminded professionals.

Satisfaction - A happier and **less stressful** way of working and feeling satisfied with **positive outcomes** and better **client feedback** .

The Resolution Code



-
- ❖ Reduce or manage any conflict and confrontation; for example by not using inflammatory language.
 - ❖ Support and encourage families to put the best interests of any children first.
 - ❖ Act with honesty, integrity and objectivity
 - ❖ **Help clients understand and manage the potential long term financial and emotional consequences of decisions.**
 - ❖ Listen to and treat everyone with respect and without judgment.
 - ❖ Use my experience and knowledge to guide clients through the options available to them.
 - ❖ Continually develop my knowledge and skills.
 - ❖ Use the Resolution guides to good practice in my day -to -day work.

Collaborative Handbook

First Client Meetings

“Whilst individuals may have anxieties about what they may interpret as ‘their rights’, it often disguises their overall fears about a situation they have never encountered before and don’t know how to approach it.

Providing a space where an individual, or both potential clients can explore what is important to them, what they have to deal with and what they hope to achieve can be a really good way to settle them and to start to get a sense of who they are, what they are worrying about and how best to help them.”

First Client Meetings

- Build connection and understanding with client
- Identify priorities and what matters most
- Explore goals and objectives
- Identify client's anxieties and concerns
- Identifying any safeguarding issues
- Explain and evaluate NCDR methods
- Discuss professional support
- Manage client expectations and costs info

First Client Meetings

Scan the QR code below:



First Client Interviews

1. Are you satisfied you are able to explain in detail all NCDR options confidently?
2. Do you provide legal advice in a first meeting?
3. Does your client always know next steps when they leave their first meeting?
4. What percentage of your clients move to an NCDR process within 2 – 4 weeks of instruction?
5. What percentage of your clients move to solicitor correspondence or court within 2 – 4 weeks of instruction?

Discussing NCDR with Clients – Table Discussions

1	How do you discuss NCDR with clients and could you do that better – if so, how?
2	How in a first meeting do you ‘Help clients understand and manage the potential long term financial and emotional consequences of decisions.’?
3	How do you discuss the possible involvement of other professionals with clients?
4	How do you approach the other person, LIP or lawyer to engage meaningful NCDR?
5	Share experiences of real cases and what you find difficult/easy?

NCDR

Legal Advice and Information Around a Table



Sousa Law

The Collaborative Practice Model

The One Couple Model (Resolution
Together/RT);

Round Table Meetings;

Interdisciplinary working;

MedArb , CollabArb and RTArb— other
emerging NCDR models;

Shuttle, Remote and flexible working
options (remote addendums)

sousalaw.co.uk

02380 713060

csousa@sousalaw.co.uk

The Collaborative Practice Model

Collaborative practice means...

“Adherence to the principle that working collaboratively means a commitment to assisting the clients to successfully reach their own agreed, informed and fair outcome without recourse to legal proceedings.

Working collaboratively should provide the means for clients to reach their own informed and fair outcome to the issues they wish to resolve together. This means that you should always respect the autonomy of clients and respect that ultimately, it is their right to make decisions, advised by you and your colleagues.”*

**Collaborative Practice Handbook*

The Collaborative Practice Model

- **Participation Agreement** – agree not to go to court so all committed;
- **Arbitration clause** - a determination can be obtained if needed;
- **Boundaries** set of respectful, confidential, amicable approach
- **Flexible to suit needs** – shuttle, online at the family home;
- **Perfect for certain cases** – pre-nups , ill health, nesting, urgent etc;
- **Joint advice approach** – professionals agree advice approach (even if disagree on legal points) and use other NCDR methods to reach a final settlement;
- **Team work** - trained to work in 4,5,6 or more professional group meetings;
- **Financial and emotional support** - in place from the outset;
- **Child centered** - enhancing co -parenting;
- **Best outcomes and client satisfaction.**

Working Collaboratively

WHAT ARE FAMILY CONSULTANTS?

The International Academy for Collaborative Practice (IACP) sets out qualification and experience requirement. In the UK these can be used as guidelines, which translated to the UK jurisdiction are as follows:

- Psychology (British Psychological Society)
- Social Work (Social Work England)
- Counselling or Psychotherapy (British Association for Counselling and Psychotherapy or UKCP)
- Mediation (Member Organisation of the FMC)

They should be a member in good standing (preferably accredited) with one or more of the professional bodies listed above that regulates their practice.

They should ideally have 3 years post -qualification experience related to couples and family work.

sousalaw.co.uk

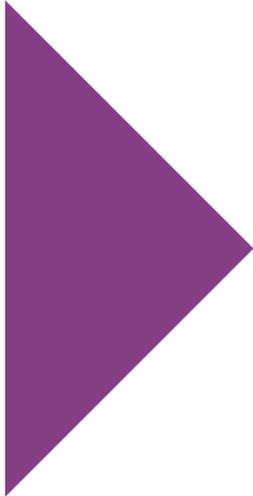
02380 713060

csousa@sousalaw.co.uk

Working Collaboratively

WHAT ARE FAMILY CONSULTANTS?

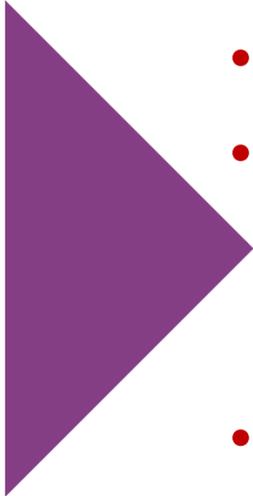
In addition, Family Consultants/Coaches will have (or be willing to gain through additional training) a comprehensive understanding of:

- 
- Mediation and the Collaborative Process (they can attend the Collaborative Foundation Training)
 - Child Development
 - Family Systems Theory
 - Dynamics of Separation and Divorce
 - Basic understanding of the family court system and legal process
 - Understanding of and/or experience of multidisciplinary team working and communication

They should have appropriate indemnity insurance and DBS checks (and other qualifications and experience) if working directly with children. Check privacy and complaints policies in place. Complaints can only be through Resolution if the Family Consultant is a Resolution Associate Member.

Resolution Together (RT) Model

Also known as one couple one lawyer (or other descriptions)

- 
- **Resolution Together Agreement** – important to sign up to terms of working;
 - **Separate MIAM type meetings** – important stage that should not be missed;
 - **Cannot negotiate** - on behalf of either client;
 - **Conflict of interest** – cannot act if there is a conflict or potential conflict;
 - **Joint advice approach** – template letters, risk assessments and advice generally only after complete and full disclosure;
 - **Insurers** – should be notified that undertaking this work, but generally no issues if proper risk assessments;
 - **Financial and emotional support** - in place from the outset;

Arbitration

Very underused and under-rated – why??

- It can be used alongside other NCDR processes, or at the end;
- MedArb and CollabArb ;
- After pFDR/ENE (although still consider mediation before);
- Can be used for single issue determinations (pets and chattels);
- Can be used for binary issues and preliminary issues;
- Can be very cost effective – although fees can vary greatly;
- Can be more flexible than you think – scope agreed in a pre-commitment meeting;
- **THINK – before issuing Form A – have we explored ALL NCDR possibilities?**

Francis Payne



Private FDRs



Early Neutral Evaluations



Arbitration as a Barrister

Francis Payne

- Barrister (Matrimonial finance and private children).
- pFDR Judge
- Leading Junior Legal 500 2026: *“highly skilled...known for his exceptional advocacy and meticulous case preparation”*.
- Leading Junior Legal 500 2025: *“a brilliant barrister. He makes the clients feel safe and listened to”*.
- Barrister-in-residence (University of Portsmouth)
- Queen Mother Scholar – Honourable Society of Middle Temple

Private FDRs



You cannot really understand the benefits of a pFDR without first appreciating what an FDR is and the purpose behind the process.

Incorporated into the court process in June 2000, FDRs have been knocking around for the best part of 25 years. They form a vital part of the court process.

FDRs were designed to “*enable parties to identify and seek to resolve issues in a case, in a way that limits the overall financial costs for the parties, to reduce delay in resolving the case and to lessen the emotional and practical strain on the family of continuing litigation*” (Financial Dispute Resolution Appointments: Best Practice Guidance, November 2021)

Private FDRs



What do the rules say about the purpose of an FDR?

FPR 2010 9.17 (1): “A meeting held for the purposes of discussion and negotiation” FPR 2010 9.17 (6):

In *GH v GH* [2024] EWHC 2547, J Peel had this to say about FDRs (emphasis added):

The FDR...is an **integral part of the court process**. **Its value has been proved time and again**”.

“It facilitates settlement in a significant number of cases”.

“In my personal experience, even the most intractable case can yield to settlement at the FDR”

“It is often those hard cases where one or other party appears utterly intransigent that the FDR judge's indication and observations can be of greatest utility”.

“The FDR judge is well able to deal with factual issues.... not by determining them but by expressing a view as to how they appear on the available evidence and how relevant they are”.

“The FDR judge is also well able to give a clear overview even if (as the judge assumed to be the case here) one or other party's position is not fully crystallised”.

Sounds good, right? Well, there is a better option. A pFDR.

What is a pFDR?

The late, Sir James Munby, summarised the process as follows:

A private FDR is a simple concept. The parties pay for a financial remedy specialist to act as a private FDR judge. That person may be a solicitor, barrister or retired judge. No additional qualification is required. The private FDR takes place at a time convenient to the parties, usually in solicitors' offices or barristers' chambers, and a full day is normally set aside to maximise the prospects of settlement. It takes the place of the in-court FDR.'

Some are concerned with the confidentiality surrounding the process. Fear not.

J Peel in *BC v BC* [2025] EWFC 236 draws a distinction between the disclosure of basic factual details (such as whether the FDR took place, the identity of the pFDR judge, location/venue and length of time in negotiations) and the content of discussions which must remain privileged.

A pFDR is confidential.

What is a pFDR?

What to expect from your pFDR judge?

- 1.To be well prepared and on top of the facts. This is important where there are complex issues relating to businesses, tax, pensions and issues of ringfencing (i.e., matrimonial/non-matrimonial).
- 2.To be on-hand all day to assist the parties, as and when required. A good pFDR judge will see the parties as many times as necessary to assist them.
- 3.Someone who is willing to prod and examine points with the parties' legal representatives. The pFDR judge should work to fill gaps in information, where possible.
- 4.To highlight the strengths and weaknesses of the parties' respective positions, with reference to the MCA and applicable case law.
- 5.To express a clear opinion as to the probable outcomes on the remaining issues and likely overall outcome in the case. The parties should expect a detailed, reasoned indication.

What is a pFDR?

What to expect from your pFDR judge?

6. Warn the parties (appropriately) on the advantages of settling. Both in terms of costs and the implications (not least the emotional strain) of pursuing matters to a final hearing. Ultimately, the indication needs to be clear, honest (in terms of explaining the discretionary nature of financial proceedings) whilst explaining the commercial reality of taking matters to a final hearing.
7. Whilst the role of the pFDR judge is not to determine disputed issues of fact, a good pFDR evaluator will not simply ‘kick the can’. Where there are disputed issues of fact, the pFDR judge should do her/his best to provide an indication. All too often judges leave the parties with no help whatsoever on disputed issues. This does not help entrenched positions.
8. That each party will be provided with their own conference room where refreshments (usually including lunch and snacks) will be provided. Wi-Fi and printing facilities should also be expected.
9. A clear timetable. Time limits should be placed on submissions and responses (it is rarely necessary to speak for more than 45 minutes – the key rule of advocacy ‘get to the point’). If the pFDR is for a day, the indication should be given before lunch. This will enable the parties to use the 2nd half of the day to negotiate.

What the pFDR judge should expect from you?



1. That the parties come to the FDR with a genuine desire to settle on appropriate terms. Both parties should ideally make WP offers in good time ahead of the FDR. Ambushing the other side with a WP offer the day before the FDR is unlikely to help.
2. If there are any issues that could jeopardise the effectiveness of the FDR, bring this to the attention of the pFDR judge in good time. It may be that a conference/meeting is required with the parties' legal teams in advance of the scheduled FDR.
3. Clear expectations. If there is a particular point you want the pFDR to address, make them aware. If you want a written indication (as opposed to the ordinary oral indication), ask for it! Ask and you shall receive.
4. Be proactive. For example, if a party requires special measures, liaise with the other side (and the chambers / venue facilitating the pFDR) to ensure that all parties can participate equally and fairly. Hybrid pFDRs or fully online hearings may assist.

What the pFDR judge should expect from you?



5. A **concise** skeleton argument. Please do not provide lengthy skeleton arguments. There is rarely justification for case note/position statement/skeleton to total more than 12 pages. Try and aim for a maximum of 10 if you can. Do not repeat what is in the preliminary documents.
6. That clients know the risks of settling. This is relevant where there are outstanding issues upon which the parties and their legal teams remain uncertain. This could involve outstanding information in relation to taxation, pensions etc. Have faith! most issues are not insurmountable. There is room for creativity.
7. Adjust your advocacy accordingly. Read the room. The pFDR will usually take in the chambers of the pFDR judge or solicitors' offices. The room is likely to be smaller than a court. The parties (and their legal teams) are likely to be within close proximity to each other. Lower the volume, talk calmly and do not inflame matters! Remember... you want a positive indication from the pFDR judge, but you also want to settle. A positive indication is pointless if you have frustrated the other side so much that they no longer wish to engage. Aggressive advocacy is to be avoided at all costs.
8. it is good practice to keep the pFDR judge updated in relation to negotiations. If the parties are confident the pFDR judge is not going to be required to provide any further guidance to the parties (but negotiations will continue), the pFDR judge should be released. The parties can then negotiate for as long as they like.

Benefits of a pFDR

- 1.Choice of pFDR judge / venue. This cannot be understated.
- 2.A well-prepared evaluator who is devoted to your case. You will not be competing for the judge's time. Unlike an in-court FDR (which is usually listed alongside 2 other FDRs and 2 FDAs), your pFDR judge will be solely committed to your case. Parties can be confident that the judge will have read all the papers and will be on top of the facts/figures prior to hearing submissions.
- 3.Greater flexibility and autonomy. The parties feel more in control. A good pFDR judge will be on hand to assist the parties whenever they require. The parties and their legal representatives should be able to see the pFDR judge as many times as they like. Creative solutions can be explored where there are narrow issues between the parties (such as remote attendance and/or shorter appointments i.e., half day).
- 4.Less delay. The pFDR is usually scheduled for the day, on a date to suit the parties. This will take place much sooner than an in-court FDR (parties can wait over 6 months for an in-court FDR to be listed). Don't forget! you can have a pFDR prior to issuing proceedings.

Benefits of a pFDR

5. A proper indication. All too often, parties are left in limbo by unhelpful or vague indications. An indication provided by a pFDR judge is often more detailed. This is due to the pFDR evaluator having sufficient time to carefully consider their indication and reasons (this is not afforded to judges in court-based FDRs). This provides greater clarity to parties when entering negotiations.
6. Higher settlement rates. Although there are attractive settlement rates at an FDR in general, the rate of settlement is even better with private FDRs.
7. The process is less adversarial and there is a greater emphasis on ‘resolution’. This enables the parties to be more open minded and increases the possibility of settlement
8. Any additional costs for pFDR (i.e., paying for the pFDR judge) are usually offset and eclipsed by wider savings to the client in relation to legal fees. pFDRs are not just for celebrities and high-value cases. It is often the parties of the most modest means who have the most to gain, by mitigating the corrosive costs consequences of litigation.

View from the field



More should be done to promote NCDR (in particular, pFDRs) in areas outside of London. Whilst pFDRs are commonly utilised in London, they are less so in other areas of the country. There appears to be little justification for this.

There appears to be a real reluctance (from senior solicitors in particular) to engage with pFDRs. It is unclear why. There is a responsibility on all of us to ensure that the quickest, most effective ways to resolve disputes are explored at all stages.

A pFDR judge must be fair and impartial. It is important that a good candidate for the task is not sidelined because he/she shares the same chambers as one of the advocates.

No settlement – end of the road? If the parties are unable to settle matters at the pFDR, the parties should continue their efforts to reach a compromise. Consideration should be given to holding a round table discussion following the pFDR to capitalise on any updated positions of the parties following the pFDR. The parties' positions may change once they have had time to reflect on the indication.

Other forms of NCDR should be explored, including arbitration. Make sensible offers to settle.

Early Neutral Evaluation (ENE)

The clear direction of travel in family law is a move towards discouraging litigation and encouraging more widespread use of NCDR.

NE affords parties the opportunity to decide for themselves how their dispute should be settled. NE involves a suitably qualified, experienced and independent third party (the evaluator) considering the disputed issue(s) and expressing their expert opinion. This can be done orally and/or in writing. The ENE is usually instructed on a joint basis.

ENE is becoming more popular. Whilst this popularity has seen a significant increase in use of pFDRs, ENE is still underutilised in other areas. Certainly, where children are concerned. Unlike mediation, role of the NE is to provide an expert opinion “indication” on any disputed issues and guide the parties as to what a court is likely to decide. NE can be carried out prior to proceedings. The timing of NE is important. #

It is never too late to attempt NE – see the judgment of Knowles J in *X v Y* [2024] EWHC 538 where proceedings were adjourned post pre-trial review where proceedings had been ongoing for some time and multi day final hearings were listed for both financial remedy and CA is

Benefits of ENE



Complete flexibility in the process. A neutral evaluation can be considered in-person (i.e., on submissions and an oral and/or written opinion being provided) or entirely on the papers.

The ability to combine NE with other forms of NCDR. For example, NE followed by mediation (when the expert opinion is fresh in the parties' minds). The parties can also pause mediation, obtain an expert opinion via NE, and return to mediation if there is a particular sticking point that is frustrating negotiations.

The expert opinion on points of dispute will often cut through issues and focuses the parties' minds on settlement. It should discourage hostile, intransigent negotiations and help in breaking through any deadlock. Has all the benefits of arbitration without imposing a decision (award) on the parties.

In relation to children, ENE is effective in reducing tension and accommodating 'resolution'. Whereas the court process re-enforces '*them and us*', ENE reminds the parties that they are obtaining an expert opinion (guidance) with a view to settlement.

The parties retain the ability to decide for themselves the most appropriate means of resolving their dispute and are empowered to do so with expert opinion on the merits of their case/position. The parties have the knowledge that any settlement on similar terms (to those indicated by the ENE) is objectively appropriate.

Emma Sanders



NCDR and Domestic
Abuse



Types of Mediation

sousalaw.co.uk

02380 713060

esanders@sousalaw.co.uk

NCDR and Domestic Abuse



sousalaw.co.uk

02380 713060

esanders@sousalaw.co.uk

What is domestic abuse and how is it identified as part of NCDR process

Domestic abuse is a pattern of controlling, coercive, threatening or abusive behaviour between people aged 16+ who are personally connected. It can be physical, sexual, economic, psychological or emotional.

How domestic abuse is identified in NCDR:

Early screening is essential, including:

- Client disclosure or history
- Court or police records
- Social services or medical evidence
- Non-molestation or occupation orders
- Domestic abuse support organisation letters

Assessments must focus on:

- Risk of harm if NCDR proceeds
- Power imbalance between parties
- Ability to participate freely and safely

NCDR assessment – key conversations with clients

Conversations with victims

- Do you feel safe meeting or communicating with the other party?
- Are there current threats, intimidation or harassment?
- Are any protective orders in place?
- Can you express your views freely, without fear of retaliation?
- Do you have access to support services?

Safeguards

Keep yourself safe

Ongoing, robust screening and review

Conversations with alleged perpetrators

- Do you acknowledge past abusive or controlling behaviour?
- Do you understand the impact on the other party and any children?
- Are you willing to follow safeguards (separate communication, shuttle mediation, solicitor involvement)?
- Can you participate without intimidation or coercion?
- Do you understand NCDR may be paused or stopped if safety concerns arise?

Can NCDR Work safely and fairly in domestic abuse Cases?

NCDR is premised on voluntary, informed participation but DA introduces Risk of harm, Power imbalance and Coercive control.

BUT in many cases, with safeguards in place domestic abuse victims **can** work with the NCDR process.

Domestic abuse is not an automatic bar. The key question is suitability, not eligibility.

Safeguards may include:

- Shuttle or online processes
- Hybrid models
- Robust screening and clear exit points

NCDR may not be appropriate where:

- A party cannot participate voluntarily
- Fear, intimidation, or coercion persists
- Participation itself risks harm

Mediation and domestic abuse

What is Mediation?

- A voluntary, non-adversarial process facilitated by a neutral third party
- The mediator does not make decisions or impose outcomes
- In domestic abuse cases, mediation focuses on safety, fairness, and informed participation
- Domestic abuse does not automatically exclude mediation — suitability depends on the right model, robust safeguards, and ongoing risk assessment



Key Principle. Suitability must be kept under review throughout

In-person mediation



What it is:

Traditional face-to-face mediation where both parties meet with a neutral mediator. The mediator facilitates discussion but does not impose outcomes.

When it can work

- Low-risk cases
- Direct communication is safe and appropriate
- Allows observation of non-verbal cues
- Can support collaborative problem-solving

When it may not be suitable

- Ongoing abuse
- Fear, intimidation or power imbalance
- Free participation is not possible

Key Point

In-person mediation can work for domestic abuse cases only if risk is minimal or appropriate safeguards are implemented; otherwise, alternative mediation types are recommended.

Online mediation



What it is:

Mediation conducted remotely via secure platforms, providing physical separation and flexibility

Why it works well

- Physical separation reduces fear and risk
- Flexible timing supports safer participation
- Reduces travel and exposure, including where protective orders exist
- Easier to monitor behaviour and manage communication
- Sessions can be paused or exited quickly if needed

Practical benefits

- Secure, confidential platforms
- Mediator control of communication
- Remote attendance for legal representatives
- Secure document sharing and record-keeping

Key point

Online mediation can enhance safety and control and is often a preferred option in domestic abuse cases, subject to ongoing assessment.

Shuttle Mediation



What it is:

Parties remain physically separated while the mediator moves between them (in person or online)

Why it works well

- Reduces intimidation and emotional escalation
- Mediator controls communication, limiting coercion
- Enhances safety and comfort for vulnerable participants
- Supports gradual engagement, building trust over time

Practical advantages

- Preserves confidentiality and privacy
- Allows individualised focus on each party
- Sessions can be paused or ended quickly if safety is compromised
- Flexible scheduling to meet safety needs

Key point

Shuttle mediation provides a highly controlled and safe framework and is often suitable where direct contact is not appropriate.

Hybrid mediation



What it is:

A structured mediation model that may involve additional professionals, depending on risk, complexity, and purpose. It is designed to support safety, fairness, and informed participation.

Why it works

- Combines mediation with expert input
- Provides a structured framework for risk assessment and safeguarding
- Integrates legal and emotional perspectives
- Suitable for high-risk or complex cases
- Encourages open discussion in a controlled environment

Who may attend

- Solicitors – to provide legal advice and clarity
- Family consultants / support workers – to support safety and emotional wellbeing
- Interpreters / language support – to ensure full understanding and participation

Key point

Hybrid mediation offers a flexible, multi-disciplinary approach where additional support is needed to manage risk.

Child Inclusive Mediation (CIM)



What it is:

A mediation approach that gives children a safe, age-appropriate voice, allowing their views to be heard and considered by parents.

Why it matters

- Gives children a voice, without placing responsibility on them
- Supports child-centred decision-making about parenting or contact
- Protects children from direct exposure to conflict
- Allows concerns to be shared in age-appropriate ways

Safeguards and benefits

- Assesses risk to children, particularly in domestic abuse contexts
- Mediator relays children's views safely to parents
- Integrates safeguards for both children and parents
- Supports therapeutic or specialist input where needed

Key point

CIM helps ensure children are heard, protected, and kept at the centre of decisions without drawing them into adult conflict.

When is NCDR is not suitable due to DA.

NCDR is not appropriate where:

- There is ongoing fear or intimidation
- A party cannot negotiate freely
- Participation would cause harm



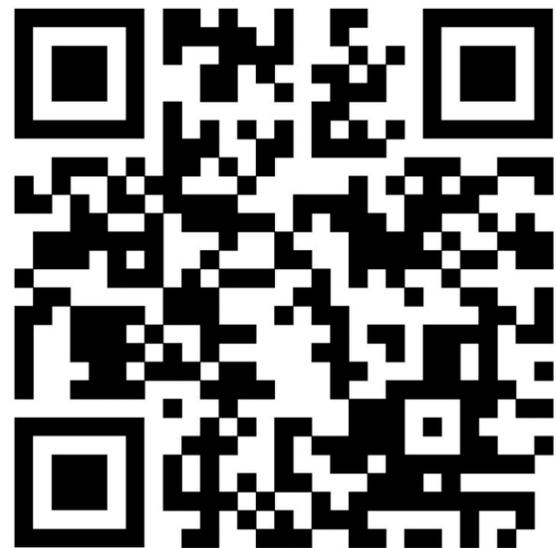
Re H-N and Others (Children) [2021] EWCA Civ 448 - Important authority for assessing suitability of mediation

“Domestic abuse is not confined to physical violence.”

Re L (A Child) [2014] EWCA Civ 567 - Supports the principle that safeguards are essential

“The court must recognise the potential for ongoing harm.”

Contact Your Panelists





Sousa Law

Nº 18
CHAMBERS

Questions?