



Case study for financial mediation

Paul aged 58 and Valerie aged 59 have been married for over 20 years. They have an adult daughter (aged 20) who is in her second year of a four-year degree course and a son (aged 16) who is at a private school and about to take his GCSEs.

Valerie has not worked since the the birth of their son, having given up a senior position in a bank. Paul runs the family business which has a substantial turnover importing medical devices from India which are supplied to health care organisations. Paul and Valerie are equal shareholders and directors. Valerie has managed the financial administrative needs of the business.

Paul and Valerie jointly own the family home which has a small mortgage. Paul moved out a few months ago and is renting a flat. They also own several investment properties in the north of England which will give rise to a taxable gain if sold or transferred.

Since they separated, Paul has inherited a share in his late father's home together with his brother.

Paul and Valerie received a significant sum from Valerie's parents to enable them to build an extension on the family home. Valerie believes that this was a loan and should be repaid when the family home is sold. Paul believes it was a gift.

Valerie has a defined benefit pension fund from the time she worked for a bank. The company has been making contributions for both Paul and Valerie into a stakeholder scheme.

The couple were seeking mediation to resolve the division of their assets, including their shares in the business, pension funds and in relation to spousal maintenance and child support.

Initially, Paul and Valerie had an enhanced Mediation Information and Assessment meeting (MIAM). This took place individually with the mediator(s). A therapist was also present to consider the future support sessions that each might like to have with the therapist and also to establish the aims, concerns and challenges in and around the joint mediation sessions.

The aim was to ensure that the joint sessions were a safe space where each person could feel supported and able to express their view.

The issues that Paul and Valerie brought to MIAM centred on:

- Valerie's anxiety about how she would manage without spousal maintenance and Paul's desire that she should become financially independent and there should be a clean break.
- Valerie felt very strongly that her parents, who are elderly and have care needs, should be repaid the money that they had provided during the marriage from the proceeds of sale of the family home.
- Paul did not think that Valerie was right to consider his recent inheritance as relevant to the overall division of assets.

Communication was difficult. Valerie found that Paul was dominating and dismissive of her concerns. Paul experienced Valerie as too emotional and unwilling to listen to his point of view. They both wanted to resolve matters quickly for the sake of the children and were keen to avoid an adversarial and costly court process.

Both parties received support outside the mediation sessions from TMS's therapist (the method and frequency having been decided at the MIAM and evolved as matters progressed and issues arose).

At the first mediation session an impasse was reached about whether it was fair to regard the money provided from Valerie's parents as a loan or a gift and how Paul's inheritance should be regarded. Valerie and Paul agreed that they would meet with TMS's neutral evaluator so that they would have clear guidance about how a judge would be likely to approach those two issues. Once this had occurred, in the next two mediation sessions Paul and Valerie were able to reach a compromise about how to divide the capital assets of their marriage and in relation to the question of spousal and child support.

The mediator drafted a memorandum of understanding which reflected the agreement reached about finances which was made into a Consent Order by their solicitors and lodged with the court for sealing after they had both taken legal advice upon its terms.