

New Rules about Attending a MIAM in Private Law Proceedings

With the advent of the implementation of the Children and Families Act 2014, there comes a new statutory requirement for parties to attempt to resolve their family disputes outside the court arena.

Attendance at a Mediation Information and Assessment Meeting – a “MIAM” – is now compulsory prior to making an application to the court on a private law matter, unless an exemption applies. The exemptions are where there has been, or is a risk of, domestic violence and/or harm to a child that would be the subject of the application by a prospective party to the application.

Part of the court’s duty at the start of a private law application is to ensure that a MIAM has been complied with or, in the alternative, ensure that a MIAM exemption has been validly claimed. The court can direct the applicant/parties to attend a MIAM before the first hearing, unless it is considered that ‘in all the circumstances of the case’, the MIAM requirement should not apply.

Compliance with the MIAM requirement will be confirmed and recorded on the face of the order at the first hearing. If the court determines that a MIAM exemption has not been validly claimed, it can adjourn proceedings to allow the applicant/parties to attend one.

Fourteen offers MIAMs appointments and mediation. Contact the clerks for more information about arranging an initial consultation with a trained Mediator.

Mandy Short
FOURTEEN
24 April 2014

Children and Families Act 2014

PART 2

10 Family mediation information and assessment meetings

- (1) Before making a relevant family application, a person must attend a family mediation information and assessment meeting.
- (2) Family Procedure Rules—
- (a) may provide for subsection (1) not to apply in circumstances specified in the Rules,
 - (b) may make provision about convening a family mediation information and assessment meeting, or about the conduct of such a meeting,
 - (c) may make provision for the court not to issue, or otherwise deal with, an application if, in contravention of subsection (1), the applicant has not attended a family mediation information and assessment meeting, and
 - (d) may provide for a determination as to whether an applicant has contravened subsection (1) to be made after considering only evidence of a description specified in the Rules.

The relevant Practice Direction:

PD 12(B): (CAP 2014) Issued 22 April 2014

Attendance at Mediation Information and Assessment Meeting (“MIAM”):

Subject to paragraph 5.6 (below), before making a family application to the court (a ‘relevant family application’ as defined in paragraph 23 below), the person who is considering making such application must attend a family MIAM. A prospective respondent is expected to attend a MIAM – whether this is a separate MIAM or the same MIAM attended by the prospective applicant. At the MIAM, information will be provided about mediation of disputes of the kind to which the application relates, ways in which the dispute may be resolved otherwise than by the court, and the suitability of mediation (or any other way of resolving the dispute) for trying to resolve the dispute. The mediator will also assess whether there has been, or is a risk of,

- (1) domestic violence, and/or
- (2) harm by a prospective party to a child that would be the subject of the application.

Resolution of disputed arrangements for children through the Court

6.1 The judge is obliged to consider, at every stage of court proceedings, whether non-court dispute resolution is appropriate.

6.2 The parties should also actively consider non-court dispute resolution even if proceedings are issued and are ongoing.

6.3 If the court considers that another form of dispute resolution is appropriate, the court may direct that the proceedings, or a hearing in the proceedings, be adjourned for such specified period as it considers appropriate:

- (1) to enable the parties to obtain information and advice about non-court dispute resolution; and
- (2) where the parties agree, to enable non-court dispute resolution to take place.

