

Professionals Delivering **Client Service** and **Satisfaction**

THE CERTAINTY PROJECT[®]



**CLIENT
SERVICES**

**CLIENT
SATISFACTION**

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THE CERTAINTY PROJECT[®]

CHILDREN MATTERS
FINANCIAL MATTERS
ETHOS AND WHAT'S
IN IT FOR YOU?

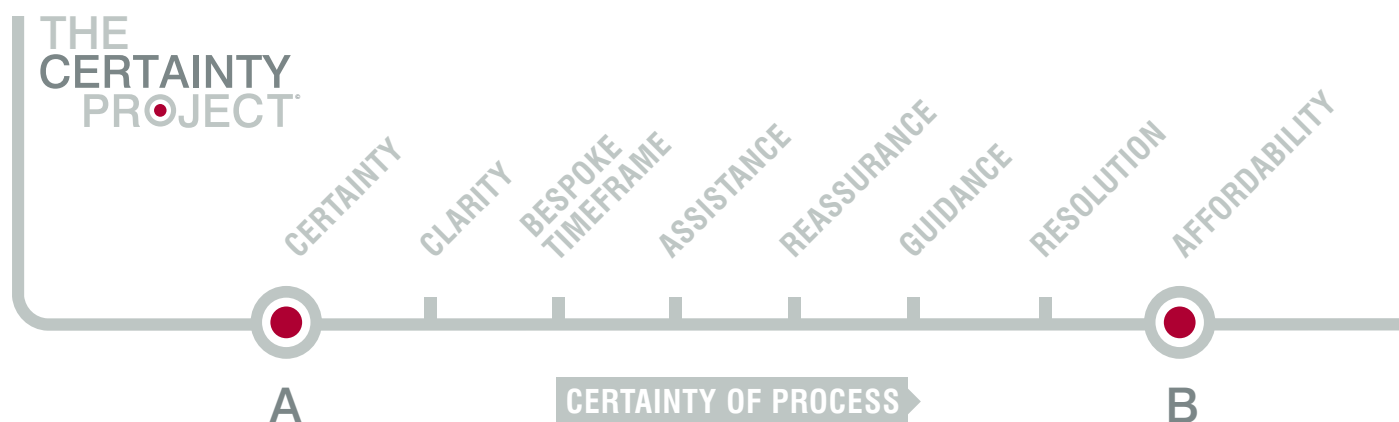
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- 01** ELEMENTS TO CONSIDER
 - 02** WHAT IS THE CERTAINTY PROJECT?
 - 03** HOW DOES THE CERTAINTY PROJECT WORK?
 - 04** MEDIATION AND ARBITRATION
 - 05** SUMMARY

01 ELEMENTS TO CONSIDER

1.1 Having made the difficult decision to end a relationship, one of the big questions that remains for parties is **how best to come to a fair and reasonable agreement** with their former partner. This is particularly the case if you have children and you and your former partner are going to need to co-parent into the future.

There are many elements to consider. Not only do you want a fair agreement, you want:

- to **reach a conclusion** in a timeframe that suits you
- have a process that is as **cost effective as possible**, not disproportionate to the assets involved, or the child care issues you need to solve
- have a real **impact** on just how your settlement unfolds
- have **as much input as possible** and **be as in control as possible**



1.2 Whatever your private feelings about your former partner, you know that you need to work together now, albeit in a very different way, to reach a sensible and swift outcome.

Your solicitor has told you of the perils of the Court System:

- Court is massively **underfunded** and **inordinately slow**
- Court Process will **not take into account your personal needs** or those of your children and Court fixtures and **Court dates will rarely be arranged** to suit you or your legal team
- There is a very real risk that the Judge you come before at any of the stages of the Court Process **will not necessarily be an expert in the area of law relevant to you eg.** you might find planning lawyers step in as judges in family matters; Tax QC's try to assist in complicated children's issues and Deputy District Judges often simply do not have the skills to assist.

These are not insignificant hurdles for separating couples, you have a real quandary facing you. Understanding this quandary has led to a group of Lawyers, Arbitrators and Mediators working together to develop a solution – **The Certainty Project**.

02 WHAT IS THE CERTAINTY PROJECT?

The **Certainty Project** is a holistic process designed to:

- 2.1 Be **flexible** and work to your timetable;
- 2.2 Ensure that at every stage you **will benefit from working with an expert in this field**, be it from your Solicitor, Mediator, Arbitrator, all of whom will work cooperatively.
- 2.3 Ensure **emotions and stress levels are kept to a minimum** as a result of the cooperation between professionals and you and your partner, making the process as pleasant as is possible for all involved.
- 2.4 **Provide a beginning, a middle and an end.** You will not be left in limbo, you will not be waiting 9 months (or more) between stages and the process can be as long or as short as necessary and importantly should fit in with your personal circumstances and needs.
- 2.5 Give you the opportunity to **come to an agreement with your former partner at every stage of the process.** It is only if you and your partner cannot agree (be it about every point or just one point) that a third party Arbitrator will make a final and binding decision for you.
- 2.6 Provide you with a **more satisfying experience** and the **best client service.**



THE CERTAINTY PROJECT

The **Certainty Project** works within the existing family law dispute resolution options of both **mediation and arbitration** to your absolute benefit. **The Certainty Project is expected overall to save you money and time** – remember, delay, antagonism and stress equals cost.

Whilst each of the professionals involved will charge as appropriate, **The Certainty Project** will be streamlined and managed so that **your legal fees are no more than they should be.** **Mediation** is already a cost-effective process. **Arbitration**, even though you need to pay your Arbitrator, is proven to be **cost effective both in terms of swiftness and in hearing time** (three days in Court can generally be dealt with in one day Arbitration, which would deliver a **massive saving** to you in terms of solicitor and barrister fees).

03 HOW DOES THE CERTAINTY PROJECT WORK?



WORK WITHIN FRAMEWORK

COOPERATION
NON-CONFRONTATION

ARBITRATOR SELECTION
SOLICITOR
BARRISTER
RETIRED JUDGE

CONTROL + MANAGE
INITIATE PROCESS
SIGN FORMS

DISCLOSURE + ADVICE
EXPERT REPORT
COMPLETED DISCLOSURE

MEDIATION
CERTAINTY PROJECT MEDIATOR

KEY BENEFITS

PARTIAL AGREEMENT

COMPLETE AGREEMENT

You and your former partner agree to work within the framework of **The Certainty Project** and appoint solicitors who understand the project and agree **to work to the project’s ethos of cooperation and non-confrontational provision** of expert advice.

3.2 You and your partner **select an Arbitrator from the Certainty Project Panel**, this Arbitrator may be a Solicitor Arbitrator or a Barrister Arbitrator or even a retired Judge (depending on the complexity of your case) and your solicitor can advise you about this.

3.3 You and your Partner will sign the relevant **Arbitration forms** which **initiate the process** and your Arbitrator will then take **control and manage** it from beginning to end.

3.4 In financial matters the Arbitrator will **direct disclosure**. Your solicitors will then help you prepare this disclosure so that everyone’s cards are on the table. If an expert is needed eg. on pensions, or property issues, or company valuations, then the solicitors will ask the Arbitrator for further direction ordering an Expert Report.

3.5 Solicitors will help you **prepare the disclosure** and will advise you fully.

3.6 You and your former partner will then attend mediation with a **Certainty Project expert Mediator**. That mediator will have as much of the disclosure as they need to engage in the process. **You and your former partner, with the help of the Mediator, will then try to reach an agreement** between yourselves as to how to settle your case. One of the key benefits and **greatest strengths of The Certainty Project Mediation** vs General Mediation is that under the **Certainty Project framework** you have two options – you and your partner have the ability **either to agree everything that needs to be decided or alternatively just some of the issues**.

04 MEDIATION AND ARBITRATION

In General Mediation, if you do not come to a complete agreement on all issues, the Mediation process fails and you have to start all over again and go through Court Litigation;

4.1 Prior to Mediation your solicitor will have **advised you as to your options** so that you know during mediation that:

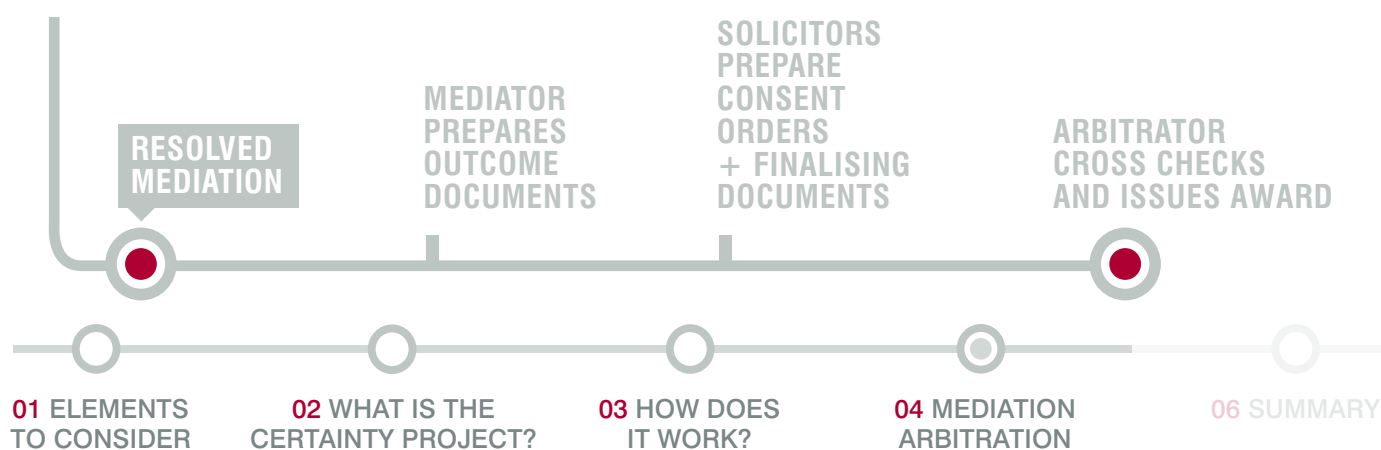
- the proposals being discussed by you and your partner **are within those parameters** or alternatively,
- if you choose to settle on certain terms and those terms are less than your solicitor has advised you may achieve, **you can do so making that deliberate choice because the settlement suits you.**

4.2 Prior to Mediation whilst your solicitor will have advised you, there will be no formal offers of settlement between solicitors. This is so as not to fetter or burden the mediation and allow you and your partner to reach a deal that suits you no matter what the law might suggest.

At the end of Mediation there may be alternative outcomes.

If you have settled all aspects of your case, then:

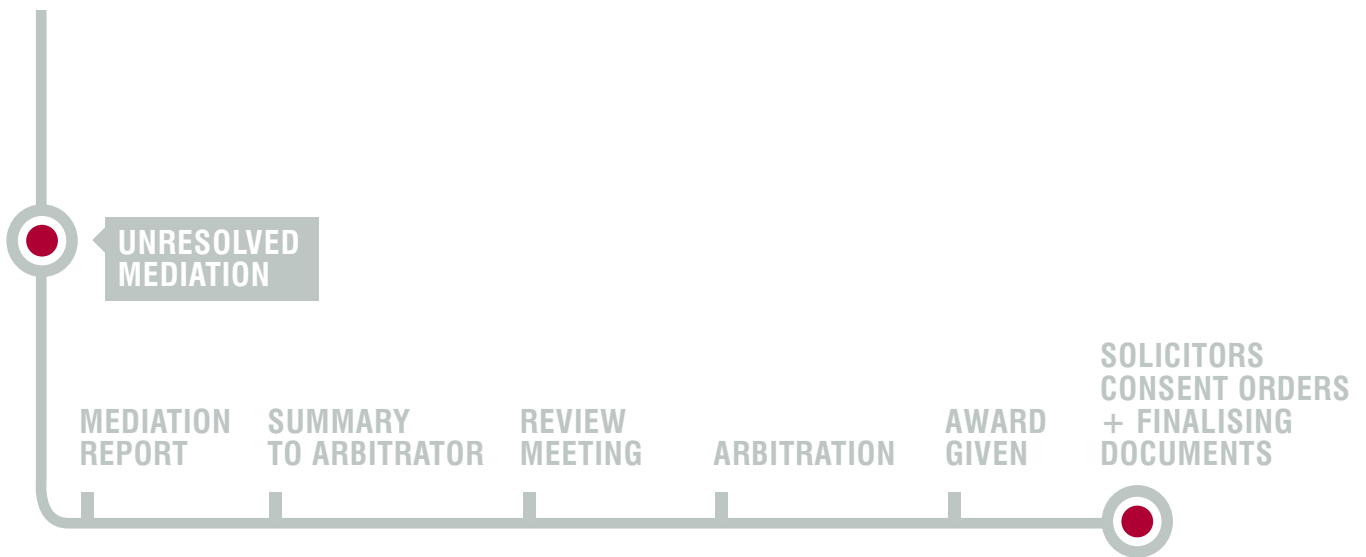
- The **Mediator will provide a report** to both solicitors
- Both solicitors will then **prepare consent orders** to the Court and the other documentation needed
- They will also prepare an **open summary** for the Arbitrator setting out the facts, your agreement, a net effect schedule of your Agreement and inviting the Arbitrator to cross check the fairness of this Agreement or why it has been made
- The Arbitrator will review the summary and if that Arbitrator thinks it all looks sensible will issue an award in terms of your agreement
- The Arbitrator may hold a meeting with you and your solicitors to discuss your agreement if that Arbitrator has any concerns about the agreement
- At the conclusion of this process the Arbitrator will issue an **award** which your solicitors will file at Court with orders pursuant to the **Arbitration protocol**, and this means you should receive sealed orders back from the Court in a fortnight rather than some 20 plus weeks;



04 MEDIATION AND ARBITRATION

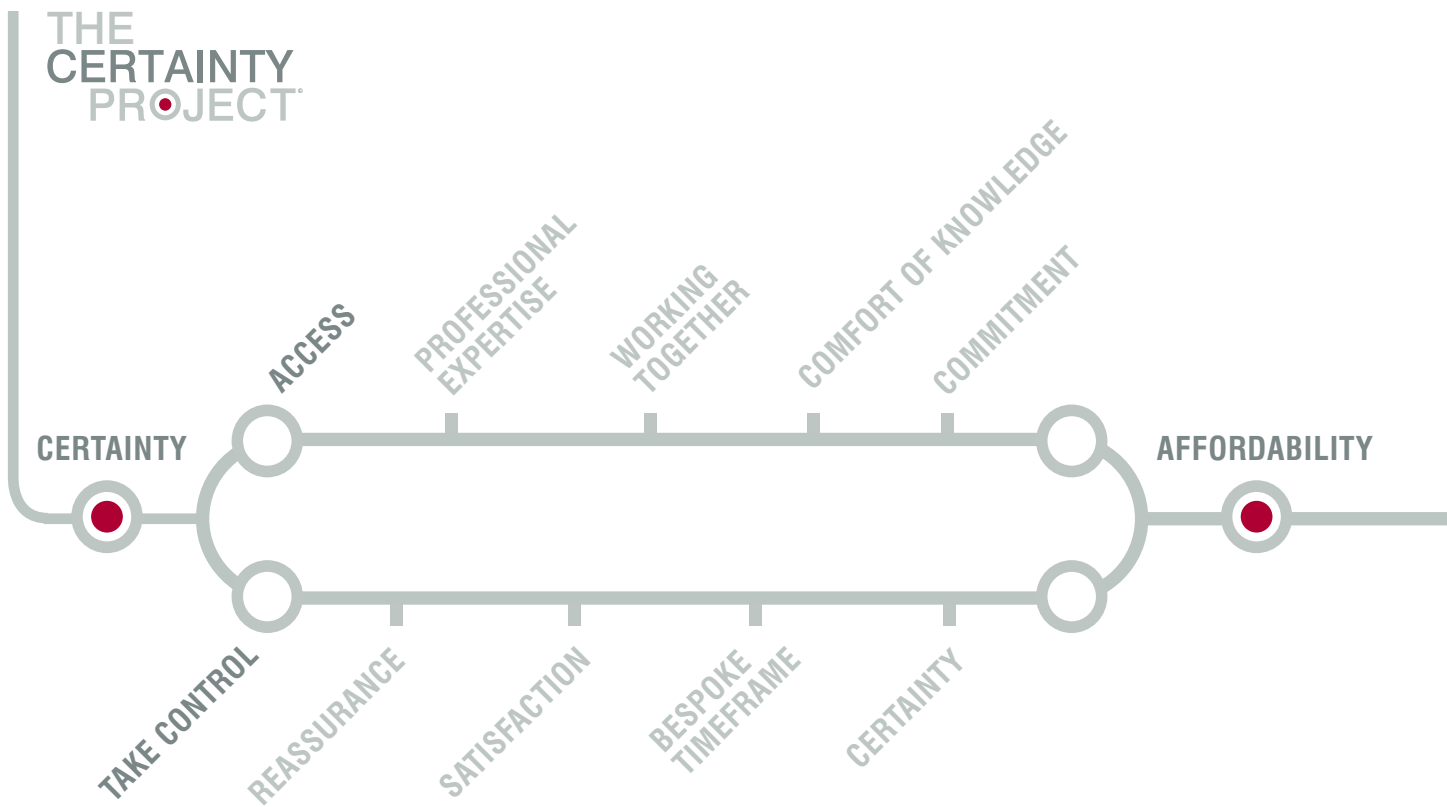
If you don't settle everything in Mediation, then:

- The Mediator will **prepare a report** setting out what you did and did not settle
- Your solicitors will then prepare a **summary for the Arbitrator** as to the position if matters are agreed or what is not agreed or whether your entire case needs determining
- The Arbitrator may hold a **review meeting to make sure everything is ready**
- Your **Arbitration** will then take place on whatever terms you have agreed with your Arbitrator and at whatever date you have agreed with your Arbitrator;
- The Arbitrator will then produce a **full award**. Your solicitors will prepare **consent orders** and your matter will be lodged with the Court.
- Between Mediation and Arbitration you may also have a private FDR (which your solicitor will discuss with you) and it is highly likely if such a step is agreed that the Arbitrator will direct it.



05 SUMMARY

The **Certainty Project** is designed to make this difficult process **as easy as possible for you**. It is a bespoke, private system **designed to give you access to the best level of expertise** with those experts working collaboratively. It is designed to be **cost efficient**, because it works at your pace and should mean an **earlier settlement**. But ultimately it is designed to give you **the opportunity to take control of your life**, and come to an agreement if you can, **but if you can't**, you are reassured that you have made the **correct choice in picking experts who are then going to make a decision for you**. You may not like that decision and it may not be what you would have liked to occur. In this respect this is no different to the Court; however, at least you will know that the person who made the decision has the skills and the qualification to do so and has been focused on your case and your case alone.



THE CERTAINTY PROJECT



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