**{mediator\_practice}**

## Legally Privileged Without Prejudice

###### **{first\_name\_a} {last\_name\_a} AND {first\_name\_b} {last\_name\_b}**

### **MEMORANDUM OF UNDERSTANDING**

**{date\_of\_mediation\_end}**

We, **{first\_name\_a} {last\_name\_a}** and **{first\_name\_b} {last\_name\_b}** have been in mediation with **{mediator\_first\_name} {mediator\_last\_name}**, mediator, in order to resolve various issues arising from our separation and divorce. **{number\_of\_sessions}** mediation sessions took place between **{date\_of\_mediation\_start}** and **{date\_of\_mediation\_end}** and resulted in our mediated proposals set out below.

This memorandum is legally privileged and ‘without prejudice’. It does not record or create a legally binding agreement between us. We understand that we may take this document to our legal advisors to be used as the basis for a legally binding agreement subject to the advice we receive. This is on the basis that the memorandum remains a privileged document.

An open statement of financial information accompanies this memorandum. We understand that this may be produced to the court and we have had the necessity for full and complete disclosure explained to us. *[If absolutely unavoidable] the documents still required in order to complete our financial disclosure are listed below.*

**Legal Advice**

**{legal\_advice\_para}**

# Background information

We were married on **{date\_married}** and lived together from **{date\_cohabited}**. We separated in **{date\_separated}**.

**{first\_name\_a}** is **{age\_a}**, (date of birth **{dob\_a}**), and is employed as a **{occupation\_a}**. **{health\_a} {relationship\_status\_a}** **{first\_name\_b}** is **{age\_b}**, (date of birth **{dob\_b}**), and is employed as a **{occupation\_b}**. **{health\_b} {relationship\_status\_b}**

**{child\_paragraph}**

**{living\_arrangements\_paragraph}**

**{court\_orders\_paragraph}**

# The principles guiding negotiations

In coming to mediation, we wished to settle matters as amicably as possible with the least possible disruption and cost, emotionally and financially, in accordance with the Agreement to Mediate we both signed. We wanted our settlement to allow the children to spend a lot of time, comfortably, with each of their parents and for their upheaval to be minimal. It was important that we made a clean break and that we each had an equitable standard of living. For the sake of the children we did not want to live far apart from each other.

*Make these specific to clients where possible, including any info on how and why they reached these particular proposals*

We considered a range of options and concluded that, to achieve our aims, it would be necessary to make a proposal that …. *(eg enabled the children to remain at the same schools etc – ie principles, not specific proposals)*

We intend that the details in this document should form the basis of a consent order.

**Summary of Proposals**

* *Brief points to summarise headings below*

# Divorce / Separation

We separated amicably. **{commenced\_divorce}** has commenced divorce proceedings and **{not\_commenced\_divorce**} does not contest the divorce. *How are costs to be dealt with, eg* court fees paid will be shared 50:50. **{court\_fees\_responsibility}**

# Arrangements for our children

We acknowledge we will both continue to have parental responsibility for **{child\_list}** and recognise the importance of good communication between us, particularly concerning their health, education and welfare. We will cooperate to ensure the children maintain a positive relationship with both of us and with their extended family in the future. We intend that both of us should be fully involved in major decisions relating to their future.

*Change the above to personalise it wherever possible*

The children will live with ………. and will see ……….

# Child support (maintenance)

We are aware of the potential involvement of the Child Maintenance Service in dealing with child support issues and of the circumstances in which they may become involved.

We have been informed we should consider taking advice on this matter and have consulted the website for the Child Maintenance Service / Child Maintenance Options.

We have made an arrangement that the sum of **£{child\_support\_amount}** per calendar month will be paid by **{child\_support\_payee}** to **{child\_support\_recipient}.** This will be in the form of ……….

*[If agreed by the clients...]* The amount of child support will be reviewed annually on the anniversary of the making of the consent order. *[State the principles for how the payment is calculated and will be amended on any review].* In addition, either of us may initiate a review of these payments in the event of any substantial change in circumstances.

# Maintenance for **{****spousal\_support\_recipient}**

**We have made an arrangement that the sum of £{spousal\_support\_amount} per calendar month will be paid by {spousal\_support\_payee} to {spousal\_support\_recipient}. This will be in the form of ……….**

*The amount and frequency of payment; when payment is to be reviewed; length of time maintenance is to be paid e.g. lifetime or fixed period of years*

*If the clients want a clean break (i.e. no order for maintenance) and there are young children or there is a big difference in incomes explain the reasons for their decision*

We considered a spousal maintenance payment during mediation, especially in the light of any substantial changes to ……….’s circumstances over the next ………. years, and … *(eg we both prefer a clean break and xxxx is confident of her wage-earning potential).*

**Insurance for child support/spousal maintenance**

*IF discussed… (it needs to be, but don’t write in something that hasn’t been discussed!)* We understand that the death benefits associated with our pensions will provide some ongoing child support in the event of our death.  *He / she / we will each* take all necessary steps required by our pension schemes to ensure payment of benefits due to the children so that these can be used for their needs.

*Otherwise, have clients considered other life insurance to cover maintenance?*

##### The family home and future living arrangements

The family home is a ………. bedroom house at **{family\_home\_address}.** It was purchased jointly for £………….. in ……….. There is an outstanding mortgage of **£{outstanding\_mortgage}** and ………., Together these total £…………, giving a net equity of **£{family\_home\_total}.**

*Details of proposal – house to be sold or retained? If sold, how are proceeds to be divided? If retained, is ownership to be transferred? What happens re mortgage – who’ll pay what? Is there to be a Charge – if so, how much and when realised? eg…*

We have agreed that the family home …………………. We have budgeted approximately £…………. to meet sale costs, leaving an expected sum available of £…………. From this we will discharge our total liabilities of £…………, leaving a balance for division of £……………..

We have agreed that ………. should receive £………… from this sum and that ……….. should receive the balance, estimated at £…………...

*Brief summary of the factors taken into account in reaching proposals (and explanation of anything unusual or which doesn’t on the face of it look affordable) eg…*

Eg This proposal recognised the need for ………….. to be able to …………….. It also recognises the difference in our earning capacities and the need to discharge our respective liabilities in order to start again.

# *State where each client is to live and confirm feasibility of plans has been checked (e.g. if a transfer of the family home from joint to one person’s sole name is proposed, will the building society agree to release the transferor from the mortgage?) eg…*

…………… has investigated the cost of suitable properties and has also investigated the possibility of obtaining a small mortgage.

…………. will live ………………………..

**Other Assets**

*Note :*

*Bank accounts*

*Policies*

*Shares*

*Cars etc*

*What will happen to these?*

**Business Assets**

*Details of any business interests. How are they held? How has the business been valued (even if between the clients)? Does the other client have any involvement and what will happen now?*

*Or delete section if not applicable*

# Pensions

*A brief description of each pension to include its type and the CETV and the length of time over which contributions have been made into the pension scheme*

**{partner\_a\_pensions\_para}**

**{partner\_b\_pensions\_para}**

*How are pensions to be dealt with, e.g. pension sharing order; offsetting?*

…………. will retain the sole benefit of ………….. his pension and ………….. will retain her pension.

**Liabilities**

There are a number of outstanding liabilities.

*A brief summary of liabilities**and if relevant, information as to whether the liability was incurred during the marriage or after separation, and state* Full details of liabilities are listed on the schedule.

*Proposals for dealing with any liabilities.*

*Note - If one client is accepting liability for a debt in joint names a statement should be included about giving an undertaking to indemnify the other party (where appropriate).*

**Household Contents**

We have agreed that ……….. will retain the bulk of the household contents to furnish a new home for herself and the children. If there are any surplus items, …….. may have these. OR This issue will be dealt with between us by agreement.

**Future inheritance prospects**

Neither of us has any expected inheritance in the imminent future nor do we intend there to be any future claims between us.

**Tax implications**

We understand that it is our responsibility to take advice on any potential tax implications arising from these proposals.

**Wills**

We are aware of the need to make new wills following our divorce and intend to take legal advice on this.

##### Summary of estimated future income and expenditure

We estimated that **{first\_name\_a}** will have a total future net monthly income of **£{net\_monthly\_income\_a} {support\_para\_a}.** This is made up of income from …………………………………

**{first\_name\_a}**’s estimated future outgoings total **£{monthly\_outgoings\_a}.**

**{first\_name\_b}** will have a net income of **£{net\_monthly\_income\_a} {support\_para\_b}.**

**{first\_name\_b}**’s estimated future outgoings total **£{monthly\_outgoings\_b}.**

|  |  |  |
| --- | --- | --- |
| **Averaged Monthly Income** | **{first\_name\_a}** | **{first\_name\_b}** |
| Net Income from employment | **{employment\_income\_net\_a}** | **{employment\_income\_net\_b}** |
| Net Income from self employment | **{self\_employment\_income\_net\_a}** | **{self\_employment\_income\_net\_b}** |
| Investments/Rental | **{income\_investments\_rental\_a}** | **{income\_investments\_rental\_b}** |
| State Benefits | **{state\_benefits\_a}** | **{state\_benefits\_b}** |
| Other income - | **{other\_income\_a}** | **{other\_income\_b}** |
| **Sub total** | **{total\_monthly\_income\_a}** | **{total\_monthly\_income\_b}** |
| Child Support | **{child\_support\_a}** | **{child\_support\_b}** |
| Maintenance | **{spousal\_support\_a}** | **{spousal\_support\_b}** |
| **Total** | **{support\_total\_a}** | **{support\_total\_b}** |
|  |  |  |
| **Expenditure** |  |  |
| Accommodation | **{accomodation\_a}** | **{accomodation\_b}** |
| Utilities | **{utilities\_a}** | **{utilities\_b}** |
| Financial commitments | **{financial\_commitments\_a}** | **{financial\_commitments\_b}** |
| Transport | **{transport\_a}** | **{transport\_b}** |
| Household expenses | **{household\_expenses\_a}** | **{household\_expenses\_b}** |
| Personal expenses | **{personal\_expenses\_a}** | **{personal\_expenses\_b}** |
| Recreation | **{recreation\_a}** | **{recreation\_b}** |
| Children | **{children\_a}** | **{children\_b}** |
| **Total** | **{monthly\_outgoings\_a}** | **{monthly\_outgoings\_b}** |
| **Shortfall / surplus** | **{shortfall\_surplus\_a}** | **{shortfall\_surplus\_b}** |

# Timetable and means of implementation of our agreement

We will take legal advice on the proposals in this memorandum and implement them as soon as practicable thereafter.

*Consider if relevant whose legal adviser will prepare a consent order/separation agreement/transfer or property and how the costs and disbursements will be met. eg*

………… will instruct her/his solicitor to prepare a consent order in the terms of this memorandum. We will share equally any costs relating to this piece of work.

We would like this Memorandum to be attached to Form D81 provided to the judge when we apply for our consent order, in order to give details of our reasoning in reaching these decisions.

*The following documents must be produced in order to complete financial disclosure:*

*(use as a last resort where the documents aren’t key to the mediation, ie not for a pension with 20 years’ contributions. Explain why it was not possible for these to be exchanged and say how this will happen)*

# Return to mediation

We understand that we may return to mediation at any time if we both wish to do so.

# Summary of the distribution of assets and liabilities

|  |  |  |
| --- | --- | --- |
|  | **{first\_name\_a}**  £ | **{first\_name\_b}**  £ |
| Equity in family home after costs | **{family\_home\_a}** | **{family\_home\_b}** |
| Other property | **{other\_property\_a}** | **{other\_property\_b}** |
| Personal assets | **{personal\_assets\_a}** | **{personal\_assets\_b}** |
| Business Assets | **{business\_assets\_a}** | **{business\_assets\_b}** |
| Other assets | **{other\_assets\_a}** | **{other\_assets\_b}** |
| **Sub Total** | **{sub\_total\_assets\_a}** | **{sub\_total\_assets\_b}** |
|  |  |  |
| Liabilities | **{liabilities\_a}** | **{liabilities\_b}** |
| **Total** | **{total\_finance\_a}** | **{total\_finance\_b}** |
|  |  |  |
| **Pensions** | **{pensions\_a}** | **{pensions\_b}** |

These proposals reflect a distribution of **{first\_name\_a}** – **{asset\_split\_a}%** and **{first\_name\_b}** - **{asset\_split\_b}%** of the current net disposable assets **{favoured\_partner}.**

Distribution of pensions is **{first\_name\_a}** – **{pensions\_split\_a}%** and **{first\_name\_b}** - **{pensions\_split\_b}%.**

This Memorandum of Understanding records the proposals negotiated in mediation with **{mediator\_first\_name} {mediator\_last\_name}** at **{mediator\_practice}.**