



Good Divorce Week 2022 – a Jersey perspective

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Good Divorce Week, which began on Monday 28 November, is an annual campaign in the UK that aims to promote practical and constructive ways for separating parents to put the needs of their children first. This year, Resolution, an association of family law professionals, is highlighting the crisis in the family courts of England and Wales and raising awareness of all the different ways families can resolve their disputes away from the court, where it is appropriate to do so.

Alternative Dispute Resolution in Jersey

In Jersey the courts do not experience the same delays as the English system. This year, in Jersey the family court has moved to a new location at International House – which has been specially designed to encourage parties to settle their matters outside the court. The new court provides various comfortable meeting rooms and parties are encouraged by the Registrars to attend court early to see if a resolution can be found. We are lucky in Jersey to have a well-functioning court system, but the principle remains that parties should only have recourse to the court as a last resort, save in limited circumstances, and the benefits of alternative dispute resolution (“ADR”) remain as significant in this jurisdiction as elsewhere. ADR is a means of resolving disputes that doesn’t involve going to court. There are plenty of great reasons to explore ADR including:

- Generally less expensive than litigation.
- Avoids the stress (both emotional and financial) of going to court.
- Usually the quickest route to reaching a resolution.
- Flexibility: parties can choose the forum of ADR.
- Helps limit the hostility between parties and maintain an ongoing relationship, which is of particular importance if

there are children and parents need to continue co-parenting for years to come.

- **Autonomy:** allows parties to maintain control and make decisions together rather than decisions being imposed on them by a judge. Any agreement reached is likely to be adhered to in the long term if parties have had input into the process themselves.

There are a wide range of ADR options and the process selected will depend upon each family’s circumstances. The three main forms of ADR we commonly come across in Jersey are:

1. Private Financial Dispute Resolution (“FDR”) hearings

A private FDR hearing is a without prejudice hearing (meaning that you can have a full and frank conversation without worrying about what you say being repeated in court) at which the parties appoint a ‘judge’ (usually a senior barrister practising in England and Wales or a retired High Court judge) to indicate the likely outcome of the issues if the matter was to be determined by them at a court hearing. The judge will also assist the parties with their negotiations following the ‘hearing’. In our experience, private FDR’s have a very high success rate and greatly assists parties in negotiating their own settlement.

2. Mediation

Mediation involves the appointment of an independent and neutral third party to help parties to negotiate and come to an agreement. The mediator does not act for either party but is there to guide both parties through the process. Mediation sessions are also without prejudice.

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In Jersey, we have one main organisation offering mediation services – Family Mediation Jersey – although other mediators (usually from the UK) can be instructed ‘privately’ outside of this organisation. The mediator usually charges a fee. More information in respect of Family Mediation Jersey is available [here](#).

Mediation can help maintain a channel of effective communication which is likely to be needed as parties move forward as co-parents.

3. Family Foundation Service

The Family Division has recently launched Family Foundation, a free ADR service. Family Foundation is made up of Family Judges, Family Proceedings’ Officers and Jersey Family Court Advisory Service (JFCAS) officers. Help may also be offered when required and available, by trained mediators, psychologists and family counsellors. Family Foundation sessions are also without prejudice and confidential.

More information can be found [here](#).

All of these forms of ADR can lead to an early settlement of a case and the more you can agree between you, the less it will cost you from both an emotional and financial perspective. However, ADR is a voluntary process, and a court application will be necessary if the other party will not engage in an alternative means of settling your dispute or if your relationship and communication have completely broken down.

How Carey Olsen can help

At Carey Olsen we always adopt a family-focused and pragmatic approach. A good family lawyer will not only have their client’s best interests in mind; they will try to find a way to resolve problems in the best interests of the family. We are a full service law firm in Jersey which means that we have a very broad base of clients and a wealth of experience and resources to assist families with every aspect of their case. We always look to achieve cost effective solutions to secure a swift settlement and are committed to finding the best way forward for each family.



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