

# **DO I HAVE TO INVOLVE THE COURTS?**



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## Do I have to involve the courts?

Not all cases need to go to court, at BH Support we actively seek resolution without the court, wherever possible and safe to do so. Most people are not familiar with court appearances so the emotional costs as well as the financial costs can be high, and Separation can be stressful enough. At BH Support, we work with you, aiming to assist you in reaching resolution through formal written agreements instead which can cover arrangements for all child and financial matters, post-separation.

## What about Protective Orders?

Where a family is at risk of harm, protective orders are a necessary application as the court has the power to enforce the law at the very highest level..

## Types of Agreement

Separation Agreement

Child Arrangements Agreement

Financial Arrangements Agreement

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## Separation Agreement

Separation agreements outline the agreed-upon terms between two people who are separating. Typically, separation agreements cover issues such as property division, child custody, child support, and many other areas. By having the terms of the separation agreement outlined in writing, both parties can have a better understanding of their respective rights and obligations.

Private negotiations, often conducted under the umbrella of Family Law, can help to avoid litigation and the potentially lengthy and costly court process by allowing both parties to reach an agreement and amicable separation. The flexibility of private negotiations can provide a more tailored outcome compared to a judgment made by the court, which often cannot reflect the unique circumstances of a situation. However, in cases where amicable discussions cannot take place, the court route will guarantee everything is taken into account and the judge can base their decision on how to split assets and liabilities on the information provided.

In order to conduct private negotiations with the other party involved, BH Support will prepare an initial letter stating your idealised outcome, inviting the other party to respond within a specified time period. Their response can take a variety of forms, including agreeing to all terms set out in the letter, agreeing to cooperate and negotiate over some elements, or refusing to collaborate entirely.

In the event that an agreement is reached, BH Support will incorporate the agreed-upon terms into the separation agreement. Upon signing the document, you can decide whether to present it to the court as a consent order. Full legal enforcement will follow if the order is approved by a judge.

In the event that an agreement cannot be reached, you will need to file an application with the court for all relevant separation matters, such as Financial Separation and Child Arrangements.

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## Child Arrangements Agreement

A child arrangement agreement is an important legal document that outlines the specific arrangements for a child's care and upbringing. It sets out who will have parental responsibility, where the child will live, when they can see each other, and how decisions about their welfare should be made.

Making a child arrangements agreement is usually quicker and cheaper than going to court. Having a written agreement in place ensures that both parents are clear on what is expected of them and helps to avoid any disagreements or confusion in the future. It also provides stability for children during a difficult time and gives them certainty about their living arrangements. If you are separated or divorced without an agreement in place, then you can apply to the court for a child arrangement order. However, a private child arrangement agreement proves to avoid the lengthy and expensive process of court, so it is always best to try and reach an amicable agreement between yourselves first; this can be done with or without the need for an independent third party.

Considering the two means for achieving a child arrangement agreement or resolution and the usual preference for an amicable agreement, BH Support usually seeks to firstly initiate private negotiation, where appropriate, whereby we would produce an initial correspondence to the other party involved, presenting forth your ideal outcome and offering collaboration on the matter as an opportunity for them to reach an amicable agreement with us. If private negotiation is unsuccessful, then we would alternatively support you in submitting a C100 with subsequent forms depending on your specific circumstance, which allows you to seek a child arrangements order through the courts.



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## Financial Arrangements Agreement

The financial arrangement outlines the responsibilities of each party to the other and is legally binding. In the event that you have not yet discussed how you wish to divide assets and liabilities, then it doesn't have to be a negative or argumentative experience. Similarly to child arrangements, there are two means for achieving a financial settlement: a privately negotiated financial arrangements agreement or a court ordered Financial Relief Order.

Firstly, in cases where you are able to act amicably, you may hold an understanding of what each party will want from the separation. Usually, this will involve dividing the property value between the individuals based on their property rights e.g. if they are joint tenants or tenants in common, as well as considering whether children are involved and other financial considerations.

Similarly, to the other agreement formats, when an agreement is produced it can be presented to the court as a Consent order to make it legally enforceable and something which both parties must abide by. In cases when an agreement cannot be made, the court route must be explored. This process will be initiated by the submission of the Form A Application, followed by a Form E which will declare all assets, liabilities, income, and expenditure held by each party both jointly and individually. Throughout this process, there are further opportunities to produce a questionnaire to raise any questions or concerns you may have regarding the opposing financial disclosure. With the compiled information, the Judge will be able to direct the settlement of the finances. However, the judge will always take the full circumstance into account before determining or awarding anything, especially when considering if the parties were married or not as this changes the process slightly within the courts.

We at BH Support can assist you through a private agreement or through the process of obtaining a court order and, where necessary, we can help you to understand the benefits of each route for your particular circumstance and marriage status

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