

# Making your agreements binding

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If you are splitting up with a partner and you reach agreement about your children or money, can you rely on it? As a family and divorce lawyer and mediator I often advise on these issues. For example, if you have agreed to sell the house and split the money but you then learn the pension can also be shared – can the agreement be changed?

There is only one way to make an agreement absolutely binding about money in divorce, and that is through the Court. If you are not married, you can use a Separation Deed. Once an order is endorsed by the Court it is binding and it can only be unpicked under certain circumstances. One of the circumstances was recently examined by a court.

One party had not been fully open about their finances and it turned out that he was a beneficiary of a valuable trust fund. Had his wife been aware of this, she would have probably reviewed the figure she reached for maintenance and her overall share of assets. The court agreed with her and the agreement was overturned.

Court orders regarding children however can always be re-opened because children's needs change. Parents know that they have to be flexible to try to keep up with this. The best way to confirm an arrangement regarding your children is to write it down, preferably with the help of anyone who helped you reach it, for example a mediator, friend or lawyer. The value of this is that it records clearly what you agreed and what your intention was. This is very useful if one of you unilaterally and

unreasonably changes the agreement. For example, you agreed that the children should live with your ex, but then it becomes harder to see them despite all the careful agreements. It does not mean that the arrangement cannot be updated.

Ideally, parents will talk together about their children's changing needs. However this is not always possible without neutral support to ensure that the conversation stays on track. Mediation can be extremely helpful in situations regarding children, and you should seek out a mediator who has relevant qualifications not only in family mediation but also in family law and who can invite children into the mediation if necessary. This means that you can be sure that they have a sound understanding of children, the process through the Court, and also mediation skills. You may need to know your legal rights and

responsibilities too and for this you need a lawyer, perhaps in a one off meeting. One of the most important things about reaching an agreement is that it is recorded appropriately to make it as binding, lasting and valuable as possible.

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