

**I F L A**

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Institute of Family Law Arbitrators

# **Family Arbitration**

*An introductory guide*

# What is family arbitration?

Family arbitration is a form of private dispute resolution in which you and your ex-partner appoint a fair and impartial family arbitrator to resolve your dispute.

**Family arbitration is an ideal approach for people who want to resolve a family dispute without the delay and expense of the court process. It allows you and your ex-partner to engage in a flexible process, with complete confidentiality, and the knowledge that a decision will be made.**

The family arbitrator will produce a decision after hearing from each of you. They will act fairly and impartially, giving each of you the opportunity to put forward your views.

Family arbitration applies the law of England and Wales. It is different to other forms of non-court dispute resolution such as mediation and collaborative law in that you are guaranteed a decision which will be made for you.

Family arbitration can be used to help separating couples (whether married or not) following the breakdown of a relationship to settle disputes relating to:

- Finance
- Property
- Child maintenance

Family arbitration cannot be used for disputes relating to:

- Child arrangement orders
- Divorce

# Why choose family arbitration?

The court process can be long, complicated and expensive. It can increase conflict and confrontation during an already distressing period.

Family arbitration provides a real alternative.

## *Speed*

Family arbitration is likely to be a lot quicker than going to court and the same person will deal with the dispute from start to finish.

## *Flexibility*

You can choose the venue and arrange meetings for dates and times that suit you.

You can choose your family arbitrator. This means that if you have specific requirements, you can find a family arbitrator with the specialist knowledge that will help resolve your unique dispute.

## *Versatility*

You can decide whether the process is document only, conducted via telephone, or by face-to-face meetings. Issues may be dealt with all at once, or one after the other.

You can decide whether you want the family arbitrator to look at the whole of a dispute or one part of it.

## *Confidentiality*

Family arbitration is essentially private. The media are not entitled to attend hearings, which are at venues you and your ex-partner agree. Only both of you, your representatives, the arbitrator, and any others agreed will be permitted to be there.

## *Legal advice*

You can retain your own lawyer to advise you throughout the process.

## *Cost*

Whilst the family arbitrator will charge a fee, the process is very likely to be less costly than the court process.

# How much does it cost?

## *Family arbitrator's fees*

You, your ex-partner, and the family arbitrator will agree the level of the family arbitrator's fees at the start of the process. Fees are usually based on an hourly or daily rate, but may also be arranged on a fixed-fee basis. These costs will normally be shared between you and your ex-partner.

## *Venue hire*

There may be costs involved in hiring a venue for any meetings scheduled as part of the process. These costs will normally be shared.

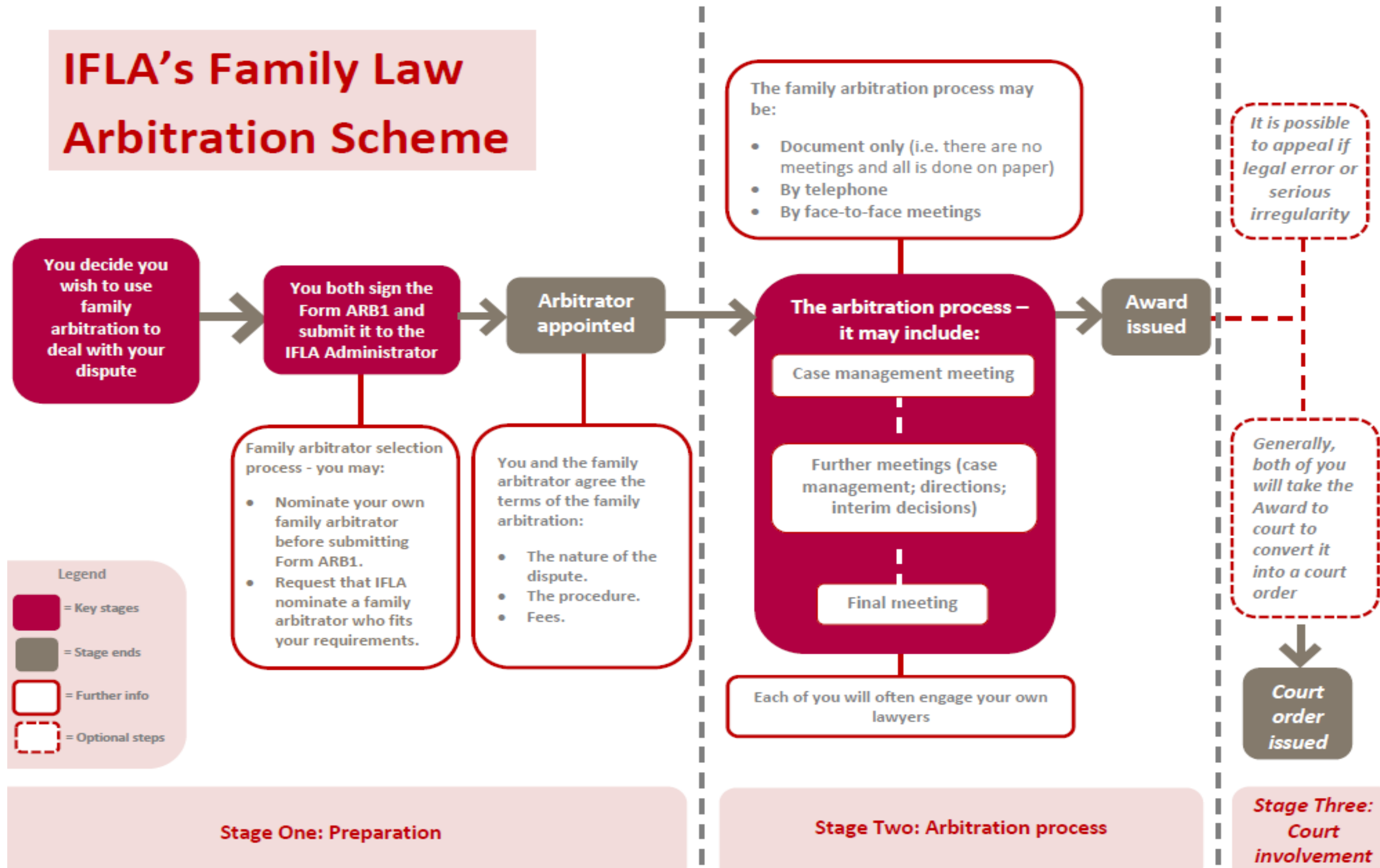
### *Independent legal advice fees*

It is usually a good idea for both you and your ex-partner to take independent legal advice to help you through the process. Normally you and your ex-partner will each pay your own legal fees.

### *Experts' fees*

You and your ex-partner might require experts as part of the process. Again, these costs will normally be shared.

# IFLA's Family Law Arbitration Scheme



# How does it work?

## Stage One: Preparation

### Step 1

You and your ex-partner have a financial dispute that you wish to resolve without going to court.

You can use family arbitration to resolve the whole dispute, or one part of it.

### Step 2

You both, with the help of your lawyers and using the IFLA website 'Search for an Arbitrator' function, choose a family arbitrator and establish his or her terms and availability: <http://ifla.org.uk/>

### Step 3

Together with your ex-partner you complete, sign and submit by post an Application for Family Arbitration (Form ARB1), to IFLA, PO Box 302, Orpington, Kent BR6 8QX. This is where you outline details of the dispute you are seeking to resolve. By signing the ARB1 you both agree that you will be bound by the decision of the family arbitrator.

### Step 4

The family arbitrator contacts both of you directly to confirm the appointment and then sends you both a formal letter of acceptance.

## **Stage Two: Family Arbitration Process**

### **Step 5**

The family arbitration process begins. How the process works is up to you and the family arbitrator. It may be a document-only process, or include face-to-face and telephone meetings.

If there is a final meeting, this will take place at a date and time agreed between both of you and the family arbitrator.

## **Stage Three: Conclusion**

### **Step 6**

Both of you must pay the family arbitrator's fee, as well as any other costs involved, such as venue hire for the family arbitration meetings.

### **Step 7**

The family arbitrator makes a decision. The decision is put in writing and delivered to you both. The decision will include written reasons.

This is much like a judgment or financial award made in court.

### **Step 8**

Generally, both of you will take the family arbitrator's decision to court. By agreement, it can become a court order.

### **Step 9**

You have a right to appeal if you think there has been a legal error or serious irregularity. Your lawyers can advise you on this.



# Where can I find out more?

Visit [www.ifla.org.uk](http://www.ifla.org.uk) to

- Learn more about family arbitration and read the FAQs.
- Find a family arbitrator that meets your requirements.
- Read the Rules of family arbitration.
- Download the Application for Family Arbitration (Form ARB1).

## *About IFLA*

Arbitration for family law cases was launched in England and Wales in February 2012 by the Institute of Family Law Arbitrators (IFLA), a not-for-profit organisation, created by the Chartered Institute of Arbitrators (CI Arb), the Family Law Bar Association (FLBA), and the family lawyers' group Resolution, in association with the Centre for Child and Family Law Reform (CCFLR), sponsored by The City Law School, City University London.

For more information:

[www.resolution.org.uk](http://www.resolution.org.uk)

[www.flba.co.uk](http://www.flba.co.uk)

[www.ciarb.org](http://www.ciarb.org)

<http://www.city.ac.uk/law/research/research-centres-and-groups/centre-on-child-and-family-law-reform>