
**MEMORANDUM OF UNDERSTANDING
PRIVILEGED SUMMARY OF PROPOSALS**

FOR:

MR PETER SMITH AND MRS JANE SMITH

CONFIDENTIAL – THIS DOCUMENT IS LEGALLY PRIVILEGED

DOCUMENT PREPARED BY: [A MEDIATOR] APRIL 2014



REGENTCHAMBERS
STOKE-ON-TRENT ◊ BARRISTERS AT LAW

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Memorandum of Understanding (Privileged Summary of Proposals)

Mr Peter Smith and Mrs Jane Smith have been in mediation with [A Mediator] with regard to various issues concerning themselves, their children and the financial issues consequent on their separation. This memorandum is a summary of the outcome of the mediation and of the proposals reached.

This memorandum/summary is legally privileged and 'without prejudice'. It does not record or create a binding agreement between Peter and Jane and any proposals set out in this memorandum/summary have not been set out with the intention of creating legal relations by the creation of this document. It is intended to facilitate each of them obtaining independent professional advice, which the mediator has recommended them to do before they take any steps to enter into an agreement whether through solicitors or informally between themselves. Unless and until they decide to enter into a binding agreement, no such binding agreement exists between them.

Peter and Jane have signed an open financial summary and parenting plan of the information disclosed by each of them. They understand that these documents may be produced to the Court (unlike this memorandum/summary) and have had the necessity for full and complete disclosure explained to them and recorded to them in writing. This memorandum of understanding (summary of proposals) may of course, be produced to legal advisers upon the basis that it is and remains a privileged document.

The mediation was carried out in accordance with the professional requirements and the Code of Practice of ADRg.

There have been six mediation sessions including the intake meetings. The first session took place on the 01.02.14 and the last session on the 20.04.14.

1. Background Information

Peter and Jane have been married for 9 years (date of marriage 22.06.04) Peter is aged 43 (d.o.b. 19.11.76) and Jane is aged 41 (d.o.b. 13.12.72).

They have two children; Jack Anthony Smith aged 8 (d.o.b. 14.09.05) and Emily Dawn Smith aged 6 (d.o.b. 22.01.08).

Peter lives in rented accommodation at; 1, Nice Flat, New Road, Letchworth, Hertfordshire HA4 3RG.

Jane resides in the family home at; 10 the High Grove, Letchworth, Hertfordshire HA5 4BD.

Peter is employed as a manager at Blackshires Building Society. He is in receipt of a gross calendar monthly income of £4,166. After deductions for Tax, National Insurance and Pension contributions (£250) he receives a net wage of £2,543 per calendar month. He has no other income.

Jane has part time employment with Hertfordshire University as an administrator and is in receipt of a net calendar monthly income of £1,000. In addition, Jane receives Child Benefit of £146, Working Families Tax Credits and Child Tax Credits of £450 and Maintenance for the children from Peter of £450, in total Jane is in receipt of £2,046 per calendar month.

2. Arrangements by Peter and Jane for their children

Peter and Jane both seek to ensure that the children are disrupted as little as possible by their separation and spend quality time with each parent. They also want to ensure that they are both able to provide a home for the children.

Since it is intended that Jane will be the main carer, the couple propose that the children should continue to live in the family home with her. As noted above Peter has already moved out of the family home.

Attached is Peter and Jane's Parenting Plan, indicating their long term plans for the children.

3. Child support

I have informed Peter and Jane with regard to the responsibilities and operation of the Child Support Act and how it may affect them. They both stated that they do not wish to formally involve The Child Maintenance Service. They propose that Peter will provide Jane with £450 per month by way of maintenance for the children.

4. Separation/Divorce

Both Peter and Jane have decided that the marriage is at an end. Jane has stated that she will be issuing divorce proceedings shortly on the basis of adultery by Peter. It is proposed that Jane will provide a copy of the Divorce Petition to Peter for his agreement prior to issue.

Peter has stated that he does not intend to defend the proceedings and the parties propose that the costs of the proceedings are shared equally between them.

5. Family Home

The family home is; 10 The High Grove, Letchworth, Hertfordshire HA5 4PD. This property was purchased in their joint names and is subject to a mortgage with Abbey National. There is a balance outstanding of £100,000. There is equity in the property of around £295,000. This does not take into account the notional costs of sale.

The couple propose that the property is offered for sale at £415,000 with Jones & Co. Estate Agents. The couple hope to achieve a sale for around £395,000 and have agreed to use the services of Smith & Co. Solicitors, in the event of a sale.

Following completion, the couple propose that the proceeds are divided as follows:

- i. Redemption of the mortgage
- ii. Payments of Estate Agent costs
- iii. Payment of Solicitors costs
- iv. Lump sum of £220,000 to Jane
- v. Balance to Peter (although this figure is not certain, Peter hopes to receive around £63,150)

It is Peter's intention to use the monies he receives from the sale, combined with other assets (please see section below on Capital and other assets), as a deposit for the purchase

of a home for himself. Additionally, he states he will obtain a mortgage and has a borrowing capacity of £120,000.

It is the intention of Jane to make an outright purchase of a home for herself and the children to live in.

Both parties have looked at several properties in the local and area and exchanged particulars between them. They have both been looking at properties in the region of £200,000 to £250,000 and therefore they both believe their aims are achievable.

In reaching the above positions, information was provided to the couple with regard to the range of Orders that a Court could make. Information was also provided to the couple about Section 25 of the Matrimonial Causes Act 1973.

6. Capital and other assets (excluding the family home)

a) Endowments:

There are two endowments, namely Sun Alliance (555644) with a value of £4,500 and Abbey Life (148484), with a value of £5,250. It is proposed that Peter should have the benefit of both of them.

b) Bank Accounts:

(i) **Peter**, has a current account with Halifax (12376768), with a balance of £3,500, a current account with HSBC (124879) with a balance of £25 and a Cash ISA with Abbey National, (number not known), with a balance of £2,000. It is proposed that he retains these in full.

(ii) **Jane**, has a current account with the HSBC (8324189), with a balance of £5,000 and a deposit account with Barclays (84321), with a balance of £5,000 and £150 in National savings (482929). It is proposed that the funds in the HSBC account are transferred to Peter and Jane retains the Barclays account, to use as her own current account and the National Savings.

(iii) **Joint**, the couple have a joint account with Abbey National, (account number not known), with a balance of £2,000. It is proposed that these funds are transferred to Peter.

c) **Shares**, The couple both have 300 shares with the Abbey National with a total value of £750 for each of them, furthermore they both have 150 shares each with British Gas, valued at £450 each and finally, 300 shares each with Energis, valued at £750 each.

Therefore, the total value of the shares is £3,900. It is proposed that all shares are transferred to Peter.

- d) **Cars**, Peter has a Renault Megane valued at £5,000 and Jane has a Ford Fiesta valued at £500. It is proposed that they both retain their own vehicles.

The parties reasoning for the above adjustments are to reflect the intention of Jane receiving a lump sum from the sale of the family home. Therefore, Peter will require the majority of the other realisable assets. I have summarised the final figures at the end of this document.

7. Financial support

It is proposed that Peter will provide Jane with £100 voluntary maintenance per calendar month, commencing on the 1st May 2014, for a period of 21 months to enable her to pay her outgoings and settle into new accommodation.

There are some limited liabilities in the form of a Debenhams card held by Jane and it is proposed she settles this from her own monies.

Following this, it is proposed that there is a clean break between the couple.

8. Pensions

Jane does not have a private pension.

Peter has a private pension with Abbey National RBS CETV as of the 10th March 2014 of £188,855. The couple propose that this pension is shared by way of a Pension Sharing Order, such that Peter will retain 60% and Jane will have the benefit of the remaining 40%.

It is proposed that the costs of seeking the said Order and associated costs of sharing the pension are shared equally between them.

In relation to State pensions, Peter has an entitlement to the basic State Pension, but not any second, formerly SERPS. Jane does not currently have any entitlement and will raise this issue with her Solicitors / Pension Advisor to explore the possibility of using Peter's National Insurance contributions during the course of the marriage to secure and or increase a basic State pension for herself.

9. Inheritance

The matter of inheritance was raised during mediation. Peter and Jane both state that neither of them has received and neither of them envisages receiving any inheritances of significance in the foreseeable future. As such they do not consider this to be a relevant issue.

Nevertheless, they have confirmed their awareness of the importance of this issue and will no doubt discuss this with their individual legal advisers.

10. Wills

The effect of divorce on any existing Wills drawn up by Peter and Jane has been discussed and each of them are aware of the importance of making new Wills. They are aware that their independent legal advisers will be able to assist them in regard to drafting new Wills.

11. Tax

It would not seem from the information provided by Peter and Jane that there are any concerns in relation to Capital Gains Tax, Income Tax, National Insurance, VAT or indeed any other taxes. However, it has been recommended that both Peter and Jane contact their respective tax offices and inform them of their changed circumstances to ensure this is the case.

They may wish to further explore this with their respective legal advisors.

12. Division of contents / personal possessions

They stated that they have already agreed the contents of the family home. They state that Jane will retain the contents of the family home, save for the following items which Peter has already removed:

- i. Lounge sofa
- ii. Three Second World War medals

(It should be noted that there were six medals in total and the couple have agreed that they will each have possession of three. It is the intention of the couple that the

three in Peter's possession will be inherited by their son Jack Smith and the three held by Jane by their daughter Emily Smith)

- iii. Wildlife pictures
- iv. Large screen T.V. from the lounge

13. Welfare Benefits

I have raised the issue of welfare benefits with Peter and Jane and have recommended that they should each check their entitlements to new benefits or ensure that they have informed their local Social Security office of their forthcoming change in circumstances.

14. Other issues

The couple state that the property is structurally sound and in good decorative order, such that no works need to be carried out in order to achieve its full potential.

The couple have agreed to cancel the joint life cover policy, as they are separating and have decided there is no merit in keeping it in place. It should be noted that there is no surrender value to this policy in any event.

Summary of Proposals and Timetable

- i. The Family home will be placed on the open market by Jones & Co Estate Agents by the 31st May 2014, with an asking price of £415,000.
- ii. Should the property not have sold by the 31st November 2014, the couple propose to place it in Jones & Co's February 2015 auction with a fixed reserve of £395,000.
- iii. Jane will be responsible for the payment of the mortgage, council tax and utility bills until such time as the property sells.
- iv. Jane will discuss and prepare a Divorce Petition with her Solicitors to forward to Peter approval by the 31st May 2014. Should he be agreeable to the contents it shall be issued the following week.
- v. Peter and Jane will contact the Banks and Building Society to transfer the funds from the joint accounts to Peter and then close the said accounts as soon as practicable.
- vi. They will each retain their own Bank Accounts as itemised above.
- vii. They will each retain their own vehicles.
- viii. Peter will provide Jane with £100 voluntary maintenance per month commencing on the 1st May 2014 and continuing for 21 months.
- ix. Peter will provide Jane with £450 voluntary maintenance for the benefit of the children.
- x. In relation to the realisable assets:

It is proposed that Jane will have around £225,150 and retain her Ford Fiesta. This is made up of £200,000 as a lump sum from the sale of the family home and £5,000 from her Barclays Account and £150 from National Savings. Jane will remain liable for the £500 Debenhams card.

It is proposed that Peter will have around £89,325 plus retain his Renault Megane. This is made up of £63,150 expected monies from the sale of the family home,

£9,750 from the endowments, £12,525 from the bank accounts and £3,900 from the shares. Peter additionally has a mortgage capacity of £120,000 and believes he will also have some assistance from his new partner with day to day household expenses.

- xi. Jane will ask her Solicitors to prepare a Consent Order by the 15th May 2014 to forward to Peter's Solicitors with the intention that proceedings for a Financial Remedy are issued late June 2014, in line with the proposals in this Memorandum, *subject always to each of them receiving their own independent advice upon the proposals.*
- xii. Should a Consent Order be granted as anticipated by the parties, it will include a Pension Sharing Order 60% in favour of Peter and 40% for Jane, any costs of which will be shared between the parties.
- xiii. They will continue to arrange contact as per the Parenting Agreement.

Concluding comments

It is to be noted that Peter and Jane entered into the mediation process voluntarily, enthusiastically and willingly and have reached an agreement they believe is workable and will allow them both to move on with their own lives and secure appropriate accommodation for them to reside in and the children.

It was clear throughout the process that they are both very caring and loving parents and have sought to keep focused upon the issues of importance, in particular the children and indeed each other's needs.

I wish them well for the future and should they require any further assistance with mediation, it would be my pleasure to work with them.

MEDSATOR

Mediator
20th April 2014