



A GUIDE TO CONFLICT, MEDIATION & RESOLUTION

What Is Conflict?

• Every person goes through some conflict in their life whether at work, at home, for things we have bought, with out neighbours, with our partner or family, in business dealings, in education or housing. Conflict is a fact of life/ inevitable.

• How we deal with that conflict however has a profound effect on our life, our emotions and our ability to have any relationship with the person we have a dispute with.

• Normally when we are in dispute with someone our relationship with that person becomes a negative one. Depending on the dispute we go through a cycle of anger, fear, resentment and often become totally absorbed by the dispute. In that situation the parties inevitably lose trust in each other and often stop speaking to each other. The lack of communication becomes entrenched and any action by the other party is often misinterpreted and assumed to be hostile to the other party.

• Often the dispute can lead to parties feeling frustrated, vulnerable, weak and at a loss about what to do. As the dispute becomes more entrenched the parties become more polarised and the negative attitudes feed into each other on all sides in a vicious circle. The interaction between the parties quickly degenerates and assumes a mutually destructive, alienating and dehumanising character.

• That negative cycle invariably affects a person's health, the way they interact with those around them and is very stressful. It is not uncommon for a person to feel lost, out of control and wishing that the dispute would go away but seeing no way out of the situation.

How can conflict be resolved?

• The most common method is to go to a Court or Tribunal. This means effectively handing the dispute over to an independent third party to evaluate each party's position and to make a decision based on the law, or established rules and guidelines. Often a lawyer or other representative is employed to present each parties case.

• The pros and cons of this approach are:

PROS	CONS
Independent assessment of case usually by an expert	Loss of control over the process
Lawyers present your case	Loss of control over how case is presented
Mechanism to enforce decision	Loss of privacy as most cases are heard in public
Some people are eligible for financial assistance	Expensive and time-consuming
	Unpredictable result
	Negative emotions are not dealt with



Why Mediation?

- Mediation is totally voluntary – Parties always retain control of process
- Both parties tell their own story in their own words
- Parties control the costs which are a small fraction of what the legal process would cost
- Parties control the time they spend in mediation
- Process is confidential and private – no washing of dirty linen in public
- Anything said in mediation cannot be used in a court or other legal forum
- Mediator is impartial and independent and will not take sides
- Mediator will not impose any solution on the parties
- Outcomes at the end of the mediation are those agreed between the parties
- Mediation allows parties to communicate in a neutral setting often enabling them to work through disputes and re-establish relationships
- Mediation allows parties to air their feelings and choose to move the interaction from a negative to a positive one
- Mediation is a modern and dignified way of dealing with conflict

Who can Mediation help?

Parties seeking mediation can be

- two or more individuals
- large numbers of people
- two businesses
- an employer and employee
- a supplier and a customer
- landlord and tenants
- neighbours
- service providers and their customers
- faith communities
- organisations in dispute with each other
- even whole communities

In fact mediation can be used in any situation of conflict or dispute. The earlier it is used the more effective it can be



How does Mediation work?

- Parties decide they wish to mediate
- A meeting is held with each party (single party meeting) to discuss their issues, feelings about the dispute and what they wish to do about the situation. The parties also decide if they wish to meet with the other party in a joint meeting
- At the joint meeting both parties have the opportunity to discuss the issues and feelings about the dispute in a safe and neutral setting facilitated by an expert mediator. It is also an opportunity for the parties to decide what steps they wish to take to deal with the situation
- If the parties wish then a variety of options are available, including:
 - an explanation
 - an apology
 - specific commitments about behaviour or conduct
 - compensation
 - changes in policies or practices
 - any other outcome the parties feel is relevant and appropriate for their situation
- The parties may want a follow up meeting with the mediator either individually or jointly after a certain period to discuss the situation and how it is working or air any further issues.
- If the parties do not wish to have a joint meeting a further meeting can take place with the mediator and either party to discuss other options for dealing with the conflict

The parties may wish to record the outcomes they have agreed in a written agreement and the mediator may assist the parties with this. Any such agreement is still voluntary and not enforceable in the courts. However there are ways to make the agreement binding and enforceable if that is what the parties want. Given the process followed in mediation any agreements reached are usually followed



FAQs

What is mediation?

Mediation is a voluntary, modern, dignified and cost effective method of dealing with conflict and disputes. The parties in dispute own the process and they will decide whether and how the dispute can be resolved. An independent and impartial mediator will facilitate a discussion in a neutral and safe setting and assist the parties in resolving their dispute

How long is the process?

Most mediations are conducted in the equivalent of one day. A meeting is held with each party first which usually take about one to two hours. A joint meeting is then held between the parties in dispute that can take from three to four hours. Depending on the dispute mediation can take place over a number of meetings

Are mediation agreements binding?

Mediation is a voluntary and non-binding process. Any agreements reached are normally not legally enforceable. However there are ways to make the agreements binding between the parties if that is what the parties wish

Will I lose my legal rights/position

That will depend on what the parties wish to achieve from the mediation and what they believe will work in dealing with their dispute. It is possible to have an understanding that is not legally binding and preserves the legal rights of each party or to have a legally binding agreement which will affect each party's legal rights

At what stage should mediation be undertaken?

Mediation can take place at any stage in a dispute. However the earlier it is undertaken the better as this prevents the parties from reaching entrenched positions that can be difficult to shift from at the later stages of a dispute

This guide is intended to give an overview of the mediation process and of course every case is individual. So, if you have any questions, please feel free to get in touch

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