

# Stages of Mediation

There are 2 stages to the mediation process, the first contact and the mediation session itself. This guide will talk you through both stages.

## Face to face mediation session

This is a suggested process for mediating face to face. The underlying theme to remember is: *“Where are the opportunities for movement?”*

### First contact

You meet the people involved (the parties) separately to start with. This may be a ‘meeting’ on the phone. The need here is to:

- Find out what's been going on and how it's affecting people
- Explain mediation and your role as a mediator
- Clarify what they want to get from the process
- Do they want a supporter present?
- Check they are happy to proceed
- Clarify any logistical issues (eg when's a good time to meet with the other party, are they going on holiday etc).



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*“To listen well, is as powerful a means of influence as to talk well, and is as essential to all true conversation.”*  
– Chinese proverb

## A. Introduction

### Welcome

- Welcome and introduce all the parties.
- Check names.
- If there are observers or supporters present, check again that both parties remember agreeing to them being there.
- You now tell them how the mediation is structured. Say something like:
  - *In a minute, we will agree to some ground rules.*
  - *We will then ask (party 1) to tell us the main things you'd like to talk about. During this time we ask (party 2) to listen and not interrupt.*
  - *We will then ask (party 2) to tell us the main things you'd like to talk about, and ask (party 1) to listen and not interrupt.*
  - *We will then check we've understood what you've both said and clarify any misunderstandings.*
  - *We will then list the key issues, facts and feelings you have told us. And if you both agree, this will form the basis of the discussion.*
  - *There will then be a discussion of the issues with a view to resolving them to your satisfaction.*
  - *The agreements will be written down, if you want them to be.*
  - *There may be a need to split up and have smaller meetings, or to have a break.*

### Ground rules

You then get agreement on each ground rule one by one:

1. **Everyone – including the mediator – will respect one another.**
2. **Language that other people find offensive will not be used.**
3. **No one will interrupt someone while they are speaking.**

### Confidentiality

You need to tell them that you keep the content of the mediation confidential, unless they say otherwise. And ask them what issues or concerns they have about confidentiality. This applies to the observers or supporters as well.

You also need to tell them that you cannot be called upon to give evidence anywhere else.

Check everything is understood and answer any questions. Do this throughout the mediation if you think things have not been understood.

## B. Setting the Agenda

### Individual disputants' accounts

Each person is given the opportunity to give a short account of the issues that they want to talk about. They do this uninterrupted.

### Mediator's feedback

After each account the mediator will feed back in an emotionally neutral and non-judgemental way, setting out the main issues and feelings.

## C. Clarifying issues to be discussed

Once the mediators have given feedback to both parties they will say what they think the main issues that need to be discussed are. And check that the parties agree.

In this section each party may well be hearing what has been going on for the other person and how it has made them feel for the first time. It may also be the first time that each party has been able to say what has been going on for them without someone interrupting them or giving them advice.

The mediators feed back to check that they have understood what has gone on, but also so that the person who has just spoken hears someone else say what has gone on for them and how it has affected them.

**Try and keep part C short. The parties need to talk to each other now, not you.**

## D. Exploring options

### Main discussion

This is where your active listening skills become the most useful.

Start by asking one of the parties what they think about one of the issues identified. Take the discussion from there.

**Your role is to get the parties talking to each other.** You can use body language and spoken language to do this.

For example moving your head to look at the other person if one party is directing all their words at you. Or saying, *'I think you need to say that to XXX.'*

Keep these points in mind:

- Affirm and encourage the disputants as needed.
- Encourage them to see beyond their own perspectives.
- Encourage creative problem solving and possible options.
- Ensure that both parties are 'hearing' each other.
- Build the momentum - every little agreement will lead to the next.
- Always pick up on statements of regret or apologies - no matter how obscure.
- Remind the parties of the ground rules when necessary.

## E. Reaching agreement

As each agreement is made, keep a note. At the end recap what the agreements have been. Bear in mind that the final agreement should be balanced. Good practice would be to say something like – *'Party X agrees to...Party Y agrees to...Parties X and Y agree to...Party X agrees to...'* and so on.

Check with the parties that they think the agreements are fair, and check that the agreement includes how they will both try to resolve issues in the future.

Ask all the parties and the mediators to sign the agreement.

*The underlying theme to remember is 'Where are the opportunities for movement'*

## Small breaks and side meetings

You may need to have a separate meeting with the parties on their own to help people explore or think through what they want. The parties might also ask for a separate meeting. Summarise before you break and check what the parties want to share afterwards. People may also need a break to go to the toilet or get a drink.

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