



How do I prepare for a successful family law mediation?

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Mediation is a way in which parties can negotiate the terms of their separation outside of court. There are situations where mediation is a requirement prior to taking your family law dispute through the courts and situations where parties choose mediation as it is often considered [more informal, more amicable](#) and more cost-effective. In this blog, we provide our top tips on preparing yourself for [family law mediation](#).

Who attends mediation?

Mediation is attended by the parties in dispute. The mediation is conducted by a qualified, independent and impartial third party.

The mediator's role is to guide the negotiations and help facilitate positive communications. The mediator will assist you and your former partner to find arrangements that work best for the children and the family and/or to reach a property settlement agreement.

When is mediation required by the courts?

In a [parenting case](#), except in limited circumstances (including urgent matters and cases involving [family violence](#)), parties will be required to attend a mediation/family dispute resolution and make a genuine attempt to resolve their parenting dispute prior to issuing a Court application.

In [financial matters](#), there is no requirement to attend mediation before applying to the Court. Even though it is not compulsory to mediate prior to applying to the Court for financial orders, it might be useful to engage a mediator, either with or without lawyers, to attempt to resolve your matter or at least narrow the issues in dispute. Also, once you have applied to the Court for financial orders,

parties will often be ordered to participate in mediation if they have not already done so.

Although not as formal as you might consider the courts to be, mediation is a serious and often highly successful process in family law disputes. Being as prepared as possible for your mediation will ensure higher prospects of success. The following tips should assist you to prepare for mediation.

1. Consult with a lawyer

It is important to get advice early. A lawyer can help you:

- understand your legal rights, entitlements and responsibilities;
- explain the mediation process;
- with any documentation that may be required to support your case; and
- formulate a proposal.

Knowing how the mediation process works and where you stand can put you in a good position to negotiate with your former partner and help you to make good decisions early.

Your lawyer can also provide advice on the cost of proceeding to court if mediation is unsuccessful. This can be taken into account in considering any proposals made by your former partner.

2. Gather any required documentation

The mediator may ask for [information/documentation to be provided to them or exchanged with your former partner](#) prior to the mediation. You should ensure that you comply fully with this request and that the information/documentation is exchanged in advance of the mediation to allow all parties a reasonable opportunity to review the material.

This is particularly important in financial matters as you will need to determine the value of the assets, liabilities and financial resources in order to have productive [property settlement negotiations](#) at mediation.

3. Identify the key issues

Make a list of all the matters you want to be resolved at mediation.

In a [parenting case](#), this may include how many days per week you would like the children in your care, the changeover location, what school the children will attend and arrangements for school holidays and special occasions.

In a [financial matter](#), this may include who will retain the former home (if you would like to retain the home you should consider whether you have the ability to refinance), are there any specific items of property/furniture that you would like to retain, will there need to be an adjustment of superannuation entitlements.

You should also make a list of the matters that you think your former partner will want to be resolved at mediation. This will help you foresee any factors which may prevent you from reaching an agreement and assess what options you have to overcome these hurdles.

4. Be open-minded and cooperative

Whilst it is important to attend mediation with a clear idea of what you want to achieve, mediation is unlikely to be successful if you are not prepared to compromise.

In addition to your ideal outcome, you should consider alternative outcomes. Identify the areas that you are willing to concede on and the areas that you know your former partner will not concede on. You may be able to use these as leverage to adapt the outcome to suit you.

Mediations are confidential. The parenting proposals made and/or property offers exchanged cannot be used against you at a later date if your matter does end up in court.

Approach the negotiations in good faith and with a constructive mindset. If emotions become heightened during the mediation process, ask to take a break and step away from the negotiations to gather your thoughts.

Benefits of reaching an agreement at mediation

Resolving your matter at mediation will save you time and money and will reduce stress.

The court process is expensive, time-consuming and emotionally taxing. Mediation provides you and your former partner with an opportunity to avoid this process and to reach a collaborative outcome rather than having a Judge determine your case. This inevitably assists with maintaining a healthy and amicable relationship with your former partner.

Not all cases can be settled at mediation however, even where a final agreement cannot be reached, mediation can be a useful step to narrow down the issues in dispute.

How we can help

If you are considering mediation/family dispute resolution and would like advice prior to attending the mediation, get in touch with one of our family lawyers for a [free initial discussion](#). In some circumstances, it may be an option for one of our lawyers to attend the mediation with you.

If you and your former partner have already attended mediation and have reached an agreement, we can draft the documents required to make the agreement legally binding.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.