Mediation: Common questions answered by SR Family Law

written by SRFL Team | 12 October 2023



Mediation can be intimidating, but it doesn't have to be. To help you better understand what to expect during mediation, and what happens when it doesn't work out, the SR Family Law team has provided answers to frequently asked questions.

HOW DO I PREPARE FOR MEDIATION?

Preparing for mediation can be a little daunting, but it is important to remember that the process is designed to be a collaborative effort towards finding a mutually agreeable resolution. Here are a few tips to help you prepare for mediation:

1. Know what you want: Before you start mediation, take some time to think about what you want to achieve from the process. Be clear about what outcomes are important to you, and what you are willing to compromise on.
2. Gather information: Make sure you have all the information and documentation you need to support your position. This might include contracts, emails, receipts, or other relevant documents.
3. Be open-minded: Mediation is about finding a compromise that works for everyone involved. Be open to hearing the other party's perspective and be willing to consider alternative solutions.
4. Practice active listening: Effective communication is key to successful mediation. Practice active listening by really focusing on what the other party is saying, and ask clarifying questions if you are unsure about something.
5. Stay calm: Mediation can be an emotional process, but it is important to stay calm and avoid getting defensive or confrontational. Remember that the goal is to find a resolution that works for everyone.

By following these tips, you can be well-prepared for your mediation and increase the chances of finding a successful resolution.

How much does mediation cost?

Mediation is a form of alternative dispute resolution that can be a cost-effective and efficient way to resolve conflicts. The cost of mediation can vary depending on several factors, including the complexity of the case, the length of the mediation session, venue hire for face-to-face sessions and the mediator's fees.

In general, the cost of mediation is significantly less than the cost of going to court. Some mediators charge an hourly rate, while others charge a flat fee for a specific mediation session. The cost of mediation can range from a few hundred dollars to several thousand dollars, depending on the circumstances.

What should I expect to happen in the mediation session?

Mediation is an effective method of resolving disputes in family law, offering several benefits to all parties, including:

- Cost-effective: Mediation is generally less expensive than going to court, as it typically involves a shorter resolution time often resulting in lower legal expenses.
- Confidentiality: Mediation is a private process that allows both parties to discuss their concerns and interests in a safe and confidential environment.
- Control: Unlike going to court, mediation allows both parties to have greater control over the outcome of the dispute. This can lead to a more satisfactory resolution for both parties.
- Focus on the future: Mediation is often future-focused, helping both parties to consider their long-term goals and interests rather than just their current positions.
- Preservation of relationships: Mediation can help to preserve relationships between parties, especially in cases where the parties will need to continue to interact with each other, such as in co-parenting situations.

Overall, mediation is an effective and beneficial method of resolving disputes in family law. It offers both parties the opportunity to

work together towards a mutually acceptable solution, while also saving time and money compared to going to court.

How long does mediation take?

The duration of mediation varies depending on the complexity of the issues being discussed and the willingness of the parties to reach a resolution. Generally, mediation can take anywhere from a few hours to a full day, depending on the number and complexity of the issues being discussed, the level of conflict between the parties, and the specific goals of the mediation.

In some cases, a single session may be all that is needed to reach an agreement, while in other cases multiple sessions may be required.

It is important to note that mediation is a voluntary process, and the parties are free to end the process at any time if they feel that it is not productive or if they are not satisfied with the outcome.

What should I expect to achieve through mediation?

Mediation is a form of alternative dispute resolution where a neutral third party helps two or more parties in conflict to reach a mutually acceptable solution. In some instances, the parties may not be able to reach an agreement, but the mediator may assist the parties in narrowing the issues in dispute which may aid them in reaching a resolution in the future. The mediator does not make a decision, but rather facilitates communication and negotiation between the parties.

During mediation, you can expect to have the opportunity to express your concerns and interests, as well as hear the other party's point of view. The mediator will help you to identify the issues that need to be resolved and work with you to find potential solutions.

The goal of mediation is to reach a mutually acceptable agreement that addresses the concerns of all parties involved. This can include resolving disputes related to family, business, and community issues. One of the main benefits of mediation is that it allows parties to retain control over the outcome, rather than having a decision imposed upon them by a judge or arbitrator.

Mediation can also be a quicker and less expensive process than going to court. It can also help to preserve relationships between parties, as it often involves open and respectful communication. Overall, mediation can provide a positive and effective way to resolve disputes and find mutually beneficial solutions.

What happens if we cannot resolve our differences during mediation?

Mediation is a process in which two or more parties work with a neutral third party, the mediator, to come to a mutually agreed-upon resolution to the family law issue they face such as parenting arrangements or property settlement. However, if the parties are unable to reach an agreement during mediation, negotiations between the parties will continue and the parties may need to explore other options to resolve their dispute.

One option is to consider going to court, for a final decision on the matter. This can be a lengthy and expensive process, but it may be necessary if the parties are unable to come to an agreement through direct negotiations and/or alternative dispute resolutions such as mediation.

Another option is to try arbitration which involves a neutral third party (arbitrator) who makes a binding decision in the matter following a review of the evidence presented by the parties.

Ultimately, the best course of action depends on the specific circumstances of your family law matter you are seeking to resolve, and the needs and goals of the parties involved. It is important to consult with your lawyer who will guide you through the options and determine whether mediation or alternative dispute resolution is necessary and/or suitable in your family law matter.

What happens if mediation progresses to arbitration?

Arbitration has become increasingly popular in recent years as a way to resolve family law disputes. Arbitration can be a beneficial pathway to resolution your family law matter and there are a number of factors to consider in deciding if arbitration is right for you.

In family law disputes, arbitration can be particularly useful because it allows the parties to maintain more control over the outcome of the case. Arbitration is often less formal and more flexible than court proceedings, which can make it easier for parties to reach a resolution that they are both happy with.

Unlike traditional court proceedings, arbitration is also typically faster and less expensive. This can be a huge incentive to parties who want to keep more funds in their own pockets and pay less in legal expenses.

One potential downside of arbitration is that the arbitrator's decision is binding and, in most cases, cannot be appealed. This can, however, be seen as a benefit as it provides finality and certainty to the parties involved.

For example, the parties can choose the arbitrator, set the rules for the arbitration process, and determine what issues will be addressed. This can be especially important in cases involving children, where the parties may want to prioritize the child's best interests over strictly legal considerations.

Overall, while arbitration may not be appropriate for every dispute, it can be a valuable tool for resolving conflicts outside of the court system.

What happens if mediation does not work, and we need to get a court order?

Mediation is a great way to resolve disputes without going to court. However, sometimes mediation may not work, or one party may refuse to participate. In such cases, it may be necessary to seek a court order.

Obtaining a court order involves filing a lawsuit and presenting your case to a judge. The judge will hear both sides of the argument and make a decision based on the evidence presented. The decision made by the judge is legally binding and must be followed by both parties.

It is important to note that going to court can be a lengthy and expensive process. It is always advisable to try mediation first, as it is a quicker and more cost-effective way to resolve disputes. However, if mediation fails, seeking a court order may be the only option.

Free initial consultation: Contact us to discuss your personal situation.

We hope you have found this information to be of use in giving you an understanding of our firm and the work we do specifically in relation to Family Law and matters related to Family Law. We know that every family law matter is unique, and your personal circumstances require you to receive personalised legal advice that considers your specific needs, objectives, and circumstances. We strongly encourage you to contact our office to talk to us about your personal circumstances and how this information specifically applies to your situation. We welcome you to get in touch with us to book a free initial consultation with our team.

We are a boutique legal firm focused on family law. Our team has a depth of experience and expertise that cannot be matched by legal practices that work across numerous areas of law.
Wherever you are in the separation process, our team can assist you. Book your free initial consultation with one of our family lawyers today, phone during office hours on 07 56 466 466 or book online via our meeting calendar here.
